SUPREME COURT OF THE UNITED STATES.

No. 319.

REUBEN WHITE, PLAINTIFF IN ERROR,

vs.

ELIJAH CANNON.

IN ERROR TO THE SUPREME COURT OF THE STATE OF LOUISIANA.

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UNITED STATES OF AMERICA, *ss:*

The President of the United States to the honorable the judges of the Supreme Court of the State of Louisiana, and holding sessions at New Orleans, Louisiana, greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said Supreme Court, before you, or one of you, being the highest court of law or equity of the said State in which a decision could be had in the said suit between E. Cannon and Reuben White, wherein was drawn in question the validity of a treaty or statute of, or an authority exercised under, the United States, and the decision was against their validity; or wherein was drawn in question the validity of a statute of, or an authority exercised under, said State, on the ground of their being repugnant to the Constitution, treaties, or laws of the United States, and the decision was in favor of such their validity; or wherein was drawn in question the construction of a clause of the Constitution or of a treaty, or statute of, or commission held under the United States, and the decision was against the title, right, privilege or exemption specially set up or claimed under such clause of the said Constitution, treaty, statute, or commission, a manifest error hath happened, to the great damage of the said Reuben White, as by his complaint appears: We, being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington, on the first Monday of December next, in the said Supreme Court, to be then and there held; that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right and according to the laws and customs of the United States should be done.

Witness the honorable Salmon P. Chase, Chief Justice of the said Supreme Court of the United States, this 5th of April, in the year of our Lord one thousand eight hundred and sixty-six.

[SEAL.] CHS. CLAIBORNE,
Cl'k of the United States Circuit Court for Eastern Dist. of La.

Filed April 6, 1866.

FELIX PEGRAM,
D'y Clerk.

1 Supreme Court of the State of Louisiana, Monroe, Western District.

ELIJAH CANNON, app't, *vs.* REUBEN WHITE, app'ee. } 718.

Filed July 12th, 1859.

(Signed) H. M. BRY, *Cl'k.*

REC. 319—1

To the hon. the judge of the 18th judicial district court of Louisiana in and for the parish of Caddo:

The petition of Elijah Cannon, a resident of the city and parish of Orleans, with respect represents that under and by virtue of an act of Congress of the 3d March, 1823, entitled "An act providing for the examination of titles to lands in that part of the State of Louisiana situated between the Rio Hondo and the Sabine river," and the act of Congress of May 26, 1824, entitled "An act supplemental to an act providing for the examination of the titles to lands in that part of the State of Louisiana situated between the Rio Hondo and the Sabine river," Leonard Dyson, of the parish of Natchitoches, assignee of Edward McLaughlin, (whose rights he had purchased,) filed his notice claiming by virtue of habitation, occupation, and cultivation, a tract of land lying within the late neutral territory
2 situated on the waters of Red river, on the southeast side of a cut-off which forms Norris island, and bounded at that time on all sides by vacant land, and containing six hundred and forty acres; plaintiff avers that the cut-off forming Norris island is Pascagoula bayou, and that Norris island of that date is now known as "Rush island." That the said claim of Leonard Dyson was supported and established by the testimony of Samuel Norris and Peter Murphy before the board of commissioners appointed under said act of Congress for the examination of titles to lands within said neutral territory; and that upon said testimony the board of commissioners were of opinion that the said claim of Leonard Dyson, assignee of Edward McLaughlin, ought to be confirmed and classed in the third class of claims as required by said act, and recommended it to Congress for confirmation. And that Congress, by act of 24th May, 1828, entitled "An act to confirm claims to land in the district between the Rio Hondo and the Sabine river on habitation and cultivation," confirmed absolutely or conditionally all the claims reported for confirmation by the register and receiver of the southwestern district of Louisiana, in their report, dated November 1st, 1824, in conformity to
3 the provisions of the said acts of Congress of the 3d March, 1823, and the 26th May, 1824, contained in the said third class of claims, including the claim of Leonard Dyson, assignee of Edward McLaughlan, numbered fourteen in said report. That by the said last mentioned act of Congress, the said claim of Leonard Dyson, assignee of Edward McLaughlan, was confirmed on condition that the same was not within the limits of the lands claimed by the Caddo Indians, which said condition is expressed in these words, viz: "Which claims are suspended until it is ascertained whether they are situated within the limits of the lands claimed by the Caddo Indians." That the claim of Leonard Dyson, assignee of Edward McLaughlan, No. 14, was not at the date of said act, nor ever had been, within the limits of the lands by the Caddo Indians. And upon proof of said fact, the said claim did not within said limits, said act of Congress of May 24, 1828, will operate from its date an absolute confirmation of the same and will rest in said Leonard Dyson,

assignee of Edward McLaughlan, and his assignees or vendees, the legal title to the said claim of land. Your petitioner avers that the said Leonard Dyson, by authentic act passed before C. E. Grenevox,
4 parish judge in the parish of Natchitoches, on the 4th May, 1833, bargained, sold, transferred, conveyed, and delivered all his rights, title, and interest in and to the said tract of land unto Stephen Tippett, John H. Mahle, and Isaac Wright. That afterwards, viz: on the 5th May, 1835, the said John H. Mahle, by an uthentic act before the parish judge of Natchitoches aforesaid, sold, transferred, conveyed, and delivered his undivided one-third interest on said tract of land to the aforesaid Isaac Wright. And on the 13th May, 1835, Stephen Tippett, by authentic act before Jno. H. Johnson, parish judge of Rapides parish, also sold, transferred, and conveyed his undivided one-third interest in and to the said tract of land to the said Isaac Wright, who thus became the sole owner of the claim of Leonard Dyson, assignee of Edward McLoughlan, the original settler on said land prior to the treaty of 22d February, 1819, between the United States and Chain, and who was the only white settler and occupant thereof prior to 22d February, 1819, and who had settled thereon as early as the year 1816 or 1817. Your petitioner avers that the said Isaac Wright, by authentic act passed before Frederick Williams, notary public in and for the parish of Natchitoches, on the 28th June, 1840, sold, transferred,
5 conveyed, and delivered to your petitioner all his rights and interest in and to the said tract of land aforesaid, being six hundred and forty acres. Further your petitioner represents that the said Edward McLaughlan and his said assignee, Leonard Dyson, had continued, uninterrupted, peaceable, public, and unequivocal possession of the land aforesaid from the year 1817 to the said 4th May, 1833, the date of the act of sale from said Leonard Dyson to Isaac Wright; and that the said Isaac Wright had continued uninterrupted peaceable possession of the same to the 28th June, 1840, the date of the petitioner's purchase from Isaac Wright; and that your petitioner has had continued, peaceable, uninterrupted, public, and unequivocal possession of said land up to the 5th October, 1848, at which time various suits were instituted by one Reuben White, of Caddo parish, against the tenants and lessees of your petitioner, then in the actual possession of said lands; wherefore your petitioner avers that he is the legal, just, and equitable owner of said land by virtue of the chain of title aforesaid, and that all the same acts comparing the same were duly recorded in the proper offices, and that he and his vendors from the original settler, Edward Mc-
6 Laughlin, have been in continued, peaceable, uninterrupted, and unequivocal possession as owners of the aforesaid land for more than thirty years; and that he and his vendors have held the same as owners in good faith under titles translative of property, and that your petitioner has thereby acquired a right by prescription to said property as against the claim or claims of all other persons, and that he is entitled to the possession and enjoyment of the same.

Your petitioner further represents that since the purchase of said

land by Isaac Wright from Leonard Dyson, the same has been surveyed and located in the name of one Jno. McLoughlin, and is embraced in the following metes and bounds, viz: All that portion of sections numbered twenty-five, (25,) twenty-six, (26,) thirty-four, (34,) and thirty-six, (36,) on the right bank of Red river, descending below Pasagoula bayou, in township No. sixteen (16) north, range No. twelve (12) west, lying in the said parish of Caddo, and bounded north by Red river, east by Red river, south by Red river and the township line of township fifteen north, range twelve west, and west by Pascagoula bayou and Red river, and that your petitioner hereby adopts said survey and location as embracing the land herein
7 claimed by him, and for which he prays judgment in this suit.

Your petitioner further showeth that after said land had been confirmed to said Leonard Dyson, assignee of said Edward McLaughlin, by the said act of Congress of May 24th, 1828, and after the said Dyson had sold and conveyed the said land to Isaac Wright, as aforesaid, and after the said Wright had sold and conveyed to your petitioner said land, certain persons unknown to your petitioner and his vendors devised a fraudulent scheme for the purpose of depriving your petitioner and his vendors of their just claim to said land; and in execution of this fraudulent and unjust design presented to the register and the receiver of the land office at Opelousas the application of one John McLoughlin, claiming said *said* land by virtue of occupation, habitation, and cultivation under the said act of Congress of 1823 and 1824; and in support of said fraudulent claim presented affidavits purporting to have been sworn to by one Charles Myers and one Pierre Rochbon; and upon said false application and affidavits the register and receiver of the land office were induced to recommend said claim of Jno. McLoughlin to Congress for confirmation, and that said claim was by Congress confirmed by act of July 6th, 1842, entitled "An act confirming certain land claims in Louisiana," upon the express condition that
8 said confirmation should not affect the rights of third persons, nor preclude a judicial decision between private claimants for the same land; and that afterwards the said John McLoughlin procured from the Commissioner of the General Land Office a patent for said land, in pursuance of the said act of Congress of July 6th, 1842.

Your petitioner further showeth that afterwards the said Jno. McLoughlin, conspiring with Reuben Wright, of Caddo parish, to defraud your petitioner of his just claim to said land, conveyed and sold to the said Reuben White said land in the month of July, 1848; and that said White, immediately after said conveyance, instituted petitory actions against the tenants and lessees of your petitioner, viz: ag't Dempsey McMullen, Cutter McMullen, Will'm Scarborough, and Rob't Nesbitt, and by means unknown to your petitioner induced said tenants and lessees to abandon the premises which they occupied on said tract of land in the absence of petitioner, and without his knowledge and consent. And immediately after said unlawful abandonment by said tenants, the said White dismissed the said

suits, and prevented your petitioner from obtaining a judgment as to the validity of his title. That he took wrongful and illegal
9 possession of said land, and still holds the same in violation of law and of the rights of your petitioner, and refuses to deliver possession of said land to your petitioner, though amicably demanded so to do. And your petitioner avers that said application in the name of John McLoughlin for the said land, and that said affidavits accompanying said application were false and fraudulent in this, that said John McLoughlin had no interest in or claim upon said land. That said applications were not made by said Jno. McLoughlin, and that said affidavits were not subscribed nor sworn to by the said Charles Myers and Pierre Roulban. That said conveyance from John McLoughlin to Reuben White was fraudulent and void for this: Said White well knew before and at the time of said conveyance that the title in the name of John McLoughlin had originated in fraud, and that the land sold was the property of another. That said John McLoughlin before, and at the time of said conveyance, declared and made known to the said Reuben White and to various other persons that the title to said land in his name was false and fraudulent. That the confirmation of said claim did affect the rights of third persons, and was therefore null and void. That the patent issued to said Jno. McLoughlin
10 or Reuben White, his vendee, is fraudulent and void by reason aforesaid. That said Reuben White illegally obtained the possession of said land as aforesaid, and is still in possession of the same. That he has committed various acts of trespass and waste upon said land by cutting down, destroying, and selling the timber growing thereon, to the damage of your petitioner of three thousand dollars. And by receiving and converting to his own use the rents, issues, and profits, he has damaged your petitioner *your petitioner* annually to the amount of twenty-five hundred dollars. Wherefore, the premises considered, your petitioner prays for citation to said Reuben White, for trial and for judgment, decreeing your petitioner to be the rightful and legal owner of said land, and for judgment for the recovery of the same, and condemning the said Reuben White to pay to your petitioner the sum of three thousand dollars damages as aforesaid, and the further sum of twenty-five hundred dollars per annum for the rents, issues, and profits of said land, from the first of January, A. D. 1853, until the final decision of this suit. Further, petitioner prays for all legal, equitable, general, and special orders in the premises, and for costs of suit.

(Signed) LAND & WINANS,
Att'ys for Pet'r.

11 Indorsed: Filed Feb. 3d, 1858.
(Signed) N. E. WRIGHT, *Clerk.*

Citation.

In the district court for the eighteenth judicial district, parish of Caddo.—No 5,186.

ELIJAH CANNON
vs.
REUBEN WHITE.

State of Louisiana to Reuben White, of the parish of Caddo.

You are hereby cited to appear at the office of the clerk of the said court, in the town of Shreveport, in the parish aforesaid, and comply with the demand contained in the petition, of which a copy is hereto annexed, or file your answer thereto in writing, in the office of said clerk, in ten days after the service hereof, with one additional day for every ten miles between your residence and the office of said clerk.

Witness the Hon. D. Creswell, judge of the said court, this 4th Feb'y, eighteen hundred and fifty-eight.

(Signed) N. E. WRIGHT, *Clerk.*

Sheriff's return.

Rec'd the within Feb'y 4, 1858, and on the same day served the same by handing a certified copy hereof, together with a certified copy of the petition, to Reuben White in person, in the town of Shreveport, parish of Caddo.

(Sig'd) H. J. G. BATTLE, *Sheriff.*

12 *Amended petition.*

Filed Feb'y 5, 1858.

N. E. WRIGHT, *Clerk.*

In the eighteenth district co't of the parish of Caddo.

ELIJAH CANNON
vs.
REUBEN WHITE. No.

The plaintiff in the above-entitled suit begs leave of the court to amend his original petition, and to allege that in the act of sale from Lenord Dyson to Stephen Tippett, John H. Mahle, and Isaac Wright, of the land in controversy, there was a misdescription of the same, which was repeated in all the subsequent sales or conveyances to your petitioner inclusive. That said lands are described in the act of sale from said Dyson as situate and being on the right bank of Red river, between the Pascagoula and Prarie bayous, when in fact said lands should have been described as situated on the right bank of Red river, between said river and the Pascagoula and Prarie bayous. That your petitioner further represents that the said Dyson never owned or claimed or intended to sell any lands on or near said bayous, except the Rio Hondo claim of Edward McLoughlin

mentioned in his original petition, which claim is situate and being on the right bank of Red river, below the Pascagoula and Prarie bayous, having for its upper boundary the Bayou Pascagoula,
13 or the cut-off mentioned in the application of Leonard Dyson, assignee of said McLoughlin, to the register and receiver of the land office, and is, in consequence of the courses of said river and bayous, situate between them, that is, between said river and said bayous, lying and being on the right bank of said river. Wherefore petitioner avers that there was error in the description of the land, and prays leave to show the same by competent evidence, and further prays that the supplemental petition be taken for part of his original petition and for general relief.

(Signed) LAND & WINAM,
Counsel for Pl'ff.

I have no objection to the filing of the amendment in chambers. Feb'y 5, 1858.

(Signed) J. M. LANDRUM,
Att'y for Def't.

Citation.

In the district court for the eighteenth judicial district, parish of Caddo.

ELIJAH CANNON
vs } No. 5,186.
REUBEN WHITE.

State of Louisiana to Reuben White, of the parish of Caddo.

You are hereby cited to appear in the office of the clerk of the said court, in the town of Shreveport, in the parish aforesaid, and comply with the demand contained in the petition of which a
14 copy is hereto annexed, or file your answer thereto in writing in the office of the said clerk in ten days after the service hereof, with one additional day for every ten miles between your residence and the office of said clerk.

Witness the Hon. D. Creswell, judge of the said court, this 5th Feb'y, 1858.

(Sig'd) B. T. SCOGIN,
Deputy Cl'k.

Sheriff's return.

Rec'd the within Feb'y 6th, 1858, and on the same day served a copy hereof, with a copy of amended petition, by *by* handing them to R. White, personally, in the town of Shreveport, parish of Caddo.

(Sig'd) H. J. G. BATTLE, *Sheriff.*

And then, afterwards, to wit, Mar. 23d, 1858, the following order was entered, to wit, from minutes:

ELIJAH CANNON
vs.
REUBEN WHITE. } No. 5,186.

Leave granted to plaintiff to take testimony in and out of the State, and default on original and amended petition.

And then, afterwards, to wit, May 31, 1858, the following motion was filed, and order entered, to wit:

Motion for order of survey.

Filed 31st May, 1858.
(Signed) N. E. WRIGHT, *Cl'k.*

In the district court of Caddo.

ELIJAH CANNON
v.
REUBEN WHITE.

And now comes the pl'ff and moves the court for an order of
15 survey of the lands described in the report of the register and receiver of the land office at Opelousas, Louisiana, in favor of Leonard Dyson, assignee of Edward McLoughlin, mentioned in his petition as the lands claimed in this suit, a certified copy of which report is hereto annexed and made a part of this motion, and that the surveyor be instructed that the cut-off mentioned in said report is the Pascagoula bayou, and Norris island is Rush island, and that he be ordered in making said survey to make Red river a boundary of said lands, and the Pascagoula bayou also a boundary, so as to include the old improvement of Edward McLoughlin in the fork of the said Pascagoula bayou and Prarie river, as established by the testimony of witnesses taken in this case. And he further moves the court for a commission to Hailey Watts, parish surveyor, to make such survey and return thereof to this court.

(Signed) LAND & WINANS,
Att'ys for Pl'ff.

Report made part of motion.

SOUTHWESTERN LAND DISTRICT, *State of Louisiana:*
OPELOUSAS, *Nov. 1st*, 1824.

To the Hon. William H. Crawford, Sect'y of the Treasury of the United States.

The register and receiver of the southwestern land district, in
16 obedience to the act of Congress entitled "An act providing for the execution of the titles of land in that part of the State of Louisiana situated between the Rio Hondo and the Sabine river," approved March 3d, 1823, and to the act supplemental thereto, approved May 26, 1824, respectfully report:

14. Leonard Dyson, of the parish of Natchitoches, assignee of Edward McLoughlin, filed his notice, claiming by virtue of habitation, occupation, and cultivation, a tract of land lying within the late neutral territory, situated on the waters of Red river, on the south side of a cut-off, which forms Norriss island, bounded on all sides by vacant land, and containing 640 acres. The claim is supported by the following testimony taken before the board:

Samuel Morris and Peter Murphy being sworn severally says, that they know the land claimed by Leonard Dyson, as assignee of Edw'd McLoughlin, and described in his above notice; that the same is lying and situated as is therein described. That said tract of land was occupied, inhabited, and cultivated by the claimant, those under whom he holds, by their living and growing corn thereon, on and previous to the 22d of Feb'y, 1819; that said occupation, habitation, and cultivation has been continued by the claimant, and those under whom he holds, since that period to the present time, and that the claimant's improvements on the tract claimed at this time includes about five acres.

17

On this testimony, we are of opinion that the claim ought to be confirmed, and have consequently in the abstract, classed it with the third class of claims.

* * * * * * * *

All which is respectfully submitted by your most obedient servants,

VALENTINE KING, *Register.*
D. L. TODD, *Rec'r.*

Abstract containing the whole number of claims embraced in the foregoing report:

Third class.

No.	Name of claimant.	Situation of claim.	Quantity.
			Acres.
1	Leonard Dyson, ass'ee of Ed. McLoughlin.	Red river	640
o	o o o o o o o o o	o o o o o o o o o o	

DAVID L. TODD.

Certificate.

REC'R GEN'L'S OFFICE,
March 9th, 1858.

I, Thomas A. Hendricks, Commissioner of the General Land Office, do hereby certify that the annexed pages, 1 to 3 inclusive, are true and literal exemplifications from the originals on file in this office,

and on pages 4, 5, and 6 are true and literal extracts from the originals also on file.

In testimony whereof I have hereunto subscribed my name
18 and caused the seal of this office to be *to be* affixed at the city of Washington, on the day and year above written.

(Signed) THOS. A. HENDRICKS, [L. S.]
Commissioner of the General Land Office.

From minutes.

E. CANNON
vs.
R. WHITE.

On motion of plff's atty, ordered that a survey be made.

Order of court for survey.

18th district court, Caddo parish.

ELIJAH CANNON
vs. } 5,186.
REUBEN WHITE.

After hearing parties by their counsel upon the motion for an order of survey, filed May 31st, 1858, it is ordered that said motion be sustained to the following extent, to wit: It is ordered that a commission issue to Hailey Watts, parish surveyor of Caddo parish, authorizing and instructing him to make a survey of the lands claimed by pl'ff in the above suit as described in the report of the register and receiver of the land office at Opelousas, Louisiana, in favor of Leonard Dyson, assignee of Edward McLoughlin, and in accordance with the pl'ff's other titles to be exhibited. It is ordered further that he give due notice to the defendant of the time of making said survey, and that he make the survey in time to return his report of the same into this court on the first day of the next regular term thereof.

Thus done and signed in open court 11th of Jan'y, 1859.

(Sig'd) D. CRESWELL,
Judge 18th Dist.

19 And then afterwards, to wit, March 30th, 1859, the following order was entered, to wit:

18th d't co't.

CANNON
vs. } No. 5,186.
WHITE.

Filed March 30th, 1859.

E. H. PENNALL, *Cy. Ct'k.*

Now comes plaintiff in the above-entitled suit and amends his original petition by a prayer for a jury, for general relief, &c.
By his att'ys.
(Signed) WINANS, DREW, WEEMS & HEATH.

From minutes.

E. CANNON
vs. } 5,186.
R. WHITE.

Amended petition filed and prayer for jury and jury allowed.

And afterwards, to wit, April 5th, 1859, the following motion was filed and order entered:

Motion for order of survey.

Filed April 5th, 1859.
(Sig'd) E. H. PENNALL, *Dy. Cl'k.*

18th dist. co't.

E. CANNON
vs. } No. 5,186.
R. WHITE.

Now comes plaintiff in the above-entitled suit, and represents that the commission and order heretofore made in the case of Haily Watts, surveyor, to make a survey of the land in controversy has been returned unexecuted. Wherefore the premises considered, your petitioner prays for a new order of survey, and that a commission issue to Edgar J. Franklin, deputy United States surveyor, to make a survey of the land in controversy, in conformity with the order previously rendered herein, and pursuing the words of the commission previously issued, and for general relief.
(Sig'd) WINANS, DREW, WEENS & HEATH.

Order of court to make survey.

18th dist. court.

E. CANNON
vs. } No. 5,186.
R. WHITE.

In this case the motion of pl'ff being considered, after hearing the counsel of parties, it is ordered that a commission issue to Edgar J. Franklin, deputy United States surveyor, to make a survey of the lands in controversy, conforming to the order previously made herein and pursuing the words of the commission previously issued.
Done and signed in open court on the 5th April, 1859.
(Signed) D. CRESWELL,
Judge 18th District.

From minutes.

E. CANNON
vs. } 5,186.
R. WHITE.

Motion for order of survey filed, and ordered that commission issue to Edgar J. Franklin, deputy United States surveyor, and granted.

Answer.

Filed April 8th, 1859.

E. H. PENNALL, *Dy. C'k.*

In the district court, parish of Caddo, La.

EDWARD CANNON
v. }
R. WHITE.

And now comes the defend't, Reuben White, and excepts to plaintiff's petition for all the matters of fraud—in acquiring title from the United States—therein charged and set forth, upon the grounds—

1st. That even if said acts were committed (which res-
21 pondent in his answer as follows denies) they inured only to the injury of the United States of America, and not to the injury of said plaintiff, who has no interest therein.

Secondly. All the persons charged as connected with said fraud are not made parties to this suit.

Third. If any nullities exist in said patents to John McLoughlin, and in his sale to respondent as charged, they are relative and cannot be inquired into collaterally, (and petitioner discloses no cause of action,) wherefore he prays that plaintiff's suit be dismissed for want of proper parties, and for want of a sufficient cause of action set forth. But if the court overrules the exceptions, then the defendant for answer denies all the allegations in plaintiff's petition and amended petition not herein admitted. He avers that he has no land belonging to the plaintiff in his possession. He further says the claim of Jno. McLoughlin to a certain tract of land was regularly proven up or on about January and February, 1834, and known as claim 162 in the reports of the register and receiver of the land office at Opelousas, La., and said officers reported favorably thereon, about and May and June, 1840, pursuant to acts of Congress, and said claim was approved by act of Congress, 6th
22 July, 1842, and the same was surveyed and located and afterwards patented to Jno. McLoughlin, on or about September, 1844, and by said McLoughlin sold to respondent in the summer or autumn of 1848. That said survey, patent, and copy of sales are hereto annexed, which land this respondent owns and is now and has been in possession since a short time after the said sale to himself, in good faith, by a just title translative of property. And has cleared on said land about four hundred and fifty acres of land, worth,

say, to twenty to twenty-five dollars per acre; and has built a dwelling house and appurtenances worth five thousand dollars; about fourteen frame negro cabins, worth about one hundred dollars each; gin-house, press, and running gear, worth about one thousand dollars; corn cribs and other improvements, worth about two thousand dollars. He prays that plaintiff's suit be dismissed, and in case of eviction he prays for judgment against the plaintiff in the sum of twenty-two thousand dollars, with interest, and that he retain possession of said land until said sum and interest is paid, and further that plaintiff pay costs.

(Signed) LANDRUM & WILLIAMSON & HODGE,
For Defendant.

23 *Patent made part of answer.*

The United States of America to all to whom these presents shall come, greeting:

Whereas the claim of John McLoughlin, in his own right, entered as number one hundred and sixty in the reports dated the thirteenth day of May and sixth day of June, one thousand eight hundred and forty, of the register and receiver at Opelousas, Louisiana, has been confirmed by the seventh section of the act of Congress approved the sixth day of July, one thousand eight hundred and forty two, entitled an act confirming certain land claims in Louisiana, which claim has been surveyed and designated as section thirty-four, containing six hundred and twenty-one acres and twenty-three-hundreths of an acre, in township sixteen north, of range twelve west, in the northwestern district, in the State of Louisiana.

Now know ye, that the United States of America, in consideration of the premises and in conformity with said act of Congress, have remised, relinquished, and forever quit claim unto the said John McLoughlin in his own right, and to his heirs, the tract or section of land above described, to have and to hold the said tract of
24 land above described, with the appurtenances, unto the said John McLoughlin in his own right, and to his heirs and assigns forever, but in no "manner" to affect the rights of third persons nor preclude a judicial decision between private claimants for the same land.

In testimony whereof, I, John Tyler, President of the United States, have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed.

Given under my hand, at the city of Washington, the twentieth day of Sept'r, in the year of our Lord one thousand eight hundred and forty-four, and of the independence of the United States the sixty-ninth.

By the President.

Recorded vol. 6, p. 179.

J. WILLIAMSON,
Recorder of Gen'l Land Office.

JOHN TYLER.

Act of sale made part of answer.

STATE OF LOUISIANA, *Parish of Caddo:*

Be it known, that this day, before me, Henry John Gray Battle, a notary public in and for the parish of Caddo, State of Louisiana, duly commissioned, and sworn and appeared John McLoughlin,
25 of the parish of Caddo, State of Louisiana, who declared that for the consideration of three thousand dollars cash, the receipt of which is hereby acknowledged, he does, by these presents, grant, bargain, sell, convey, transfer, and set over with a full guarantee against all troubles, debts, mortgages, evictions, donations, alienation, and other encumbrances whatever, unto Reuben White, of the parish of Bossier, State of Louisiana, present and accepting the following described property, to wit: Certain tracts or parcels of land situated in the parish of Caddo, and known, as well as can be described, as portions of fractional sections number twenty-five, twenty-six, thirty-four, thirty-five, and thirty-six. Bounded on the north by Red river; on the east by Red river and public lands; on the south by township line 15 and 16, and on the west by Pascagoula bayou. The said land contains seven hundred and eighty-one 27-100 acres, and is the same land which was confirmed to John McLoughlin by act of Congress of 1842, which may be more fully understood by reference to certificate No. 162, on file in the office of the land register in Natchitoches, La., to have and to hold the said land unto the said purchaser, his heirs and assigns forever. And the said vendor hereby further promises that he and his heirs shall and will
26 forever warrant and defend the title to the lands herein conveyed against all legal claims and demands whatsoever. The said vendor moreover transfers unto said purchaser all the rights and actions of warranty to which he is entitled against all the former proprietors of the lands herein conveyed, subrogating said purchaser to the said rights and actions to be by him enjoyed and exercised in the same manner as he might have been by the present vendor.

Done and passed in my office, in the parish of Caddo aforesaid, in the presence of H. Barker and Augustus D. Battle, witnesses of lawful age, and domiciliated in this parish, who hereunto sign their names with the parties, except McLoughlin, who makes his mark, not knowing how to write, and me, the said notary, on this twenty-second day of June, in the year of our Lord one thousand eight hundred and forty-eight.

(Original signed) JOHN his ⋈ mark. McLOUGHLIN.
REUBEN WHITE.

Attest: H. BARKER.
A. D. BATTLE.
H. J. G. BATTLE,
Notary Public.

I certify the foregoing to be a true copy of the original act of sale on file and of record in my office.

Given under my hand and private seal, (having no seal office,)
27 at Shreveport, this June, A. D. 1848.

(Signed) H. J. G. BATTLE,
Notary Public.

I certify that the within sale has been duly recorded in my office, July 10, 1848, in book D.

Given under my hand and seal of office this July 18, 1848.

(Signed) JOHN LEWIS, *Recorder.*

Copy of act of sale from John McLoughlin to Reuben White, made part of answer.

STATE OF LOUISIANA, *Parish of Caddo:*

Be it known, that this day, before me, James O. Lewis, recorder and notary public in and for the parish of Caddo and State of Louisiana, duly commissioned and qualified, personally came and appeared John McLoughlin, a resident of Caddo parish, State of Louisiana, who declared that whereas on the 22d day of June, A. D. 1848, by public act passed before H. J. G. Battle, a notary public in and for the parish of Caddo, which said act is recorded in my office a. p. book, he did for and in consideration of the sum of three thousand dollars cash, which he, the said , acknowledges then to have received, bargain, sell, and deliver unto Reuben White, a citizen of the parish of Bossier, a certain tract of land on Red river in Caddo parish, immediately below the Pascougala bayou, which said
28 land is described in said act as follows, to wit: Certain tracts or parcels of land situate in the parish of Caddo, and known as well as can be described as portions of fractions Nos. twenty-five, twenty-six, thirty-four, thirty-five, and thirty-six, bounded on the north by Red river on the east by Red river, and public on the south by the township line 15 and 16, and on the west by the Pascagoula bayou, the said land contained seven hundred and eighty-one $\frac{27}{100}$ acres, and is the same land which was confirmed to John McLoughlin by act of Congress of 1842. which may be more fully understood by reference to the certificate, No. 162, on file in the office of the land register in Natchitoches, Louisiana. And whereas, in the description of the land meant and intended to be bargained and sold by the said act there exists errors and inaccuracies: Now, therefore, be it known that in consideration of the premises and of said land, of three thousand dollars cash, which the said McLoughlin acknowledges to have received from said White, and of the further assurance of title to the said White of the land in said act meant and intended to be sold, conveyed, and delivered; and for the purpose of describing said land more fully and explicitly, and correct-
29 ing any errors, which may exist in the description in said act contained, he does by these presents grant, bargain, sell, convey, affirm, and deliver, with a full guarantee against, all debts, liens, mortgages, suits, evictions, donations, alienations, and other encum-

brances whatsoever unto the said Reuben White here present, accepting and purchasing for himself, his heirs, and assigns all the tract of land known as sections (34) thirty-four; township sixteen (16) north, of range (12) twelve west, containing six hundred and twenty-one acres and twenty-three-hundredth of an acre (621 $\frac{23}{100}$) situated on the right bank of Red river, descending immediately between the Pascagoula bayou, and bounded north by Red river; east by Red river, and a fraction of section thirty-six (36) now occupied by or in the use of Butler; south by Red river, and the township line of the township (15) N., range twelve, (12;) and west by Pascagoula bayou and Red river. it being the same land recommended for confirmation to the said McLoughlin by the register and receiver of the land office at Opelousas in their reports dated 30th May and the 6th day of June, A. D. one thousand eight hundred and forty, as claim to one hundred and sixty-two (162) acres, which said claim was
30 confirmed by an act of Congress approved July 6th, A. D. 1842, entitled an act confirming certain land claims in Louisiana, and has been located and approved by the surveyor general, with such bounds and for such quantity as will appear by reference to the diagram annexed to this act, and specially referred to said diagram by the said appearers, and by me, the said notary, paraphed "Ne varietur." And the said vendor John McLoughlin further declared that he had and by these presents does fully authorize and empower his vendee, the said Reuben White, to demand and receive of the Commissioner of the General Land Office, or other proper authority, a patent for the lands hereinbefore sold, either in his own name or in the name of the said vendor, as to him, the said vendee, may seem most convenient and proper, this power to be held and deemed irrevocable. The said vendor doth furthermore stipulate and bind himself that if any patent for the above-described lands has heretofore issued or shall hereafter be issued in his name, he will, at his proper cost and charges, transfer and deliver the same to the said Reuben White. In faith whereof the said vendor, declaring that he cannot write his name, doth affix his ordinary mark of a
31 cross, and the said vendee doth sign his name hereto, in the presence of John M. Landrum and John M. Lewis, competent witnesses of lawful age, and domiciliated in said parish of Caddo, who likewise sign their names hereto, together with the said parties and me, the said notary, at my office in the town of Shreveport and parish aforesaid, this thirteenth day of September, in the year of our Lord one thousand eight hundred and forty-eight. The word "acres" on the second page interlined before signing, and the words "of the" on third page erased.

(Signed) JOHN his × mark McLOUGHLIN.
REUBEN WHITE.

Attest: JOHN M. LANDRUM.
J. M. LEWIS.
J. O. LEWIS,
Recorder and Ex. Off. N. Public.

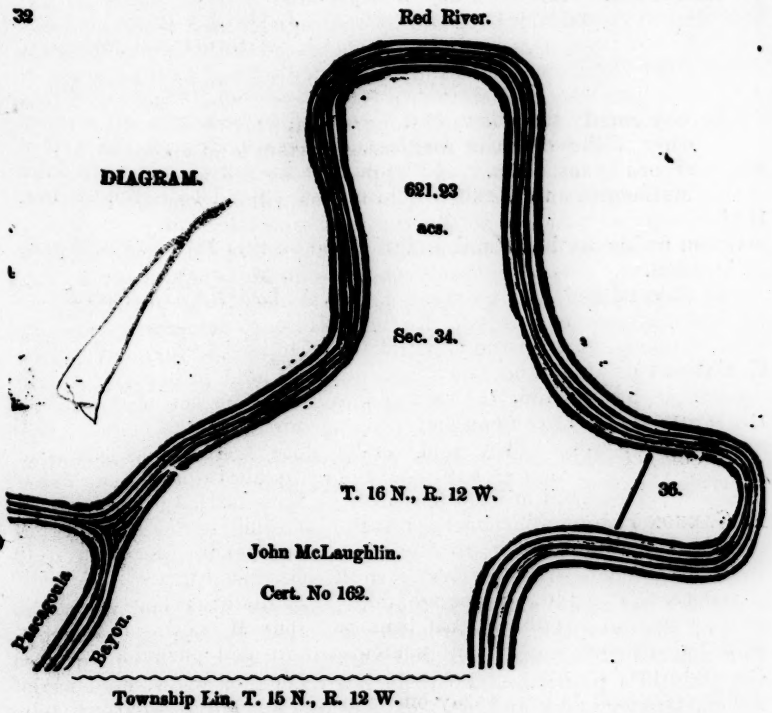
RECORDER'S OFFICE, *Parish of Caddo.*

I hereby certify the above and foregoing to be a true and correct copy of the original act on file and of record in my office.

Indorsed: Filed and recorded September 13th, 1848.

Given under my hand and seal of office on this fourteenth day of April, A. D. 1859.

(Signed) F. A. LEONARD,
Deputy Recorder.



Northwestern district, La.

SURVEYOR GENERAL'S OFFICE, *Donalsonville, La., July 5th,* 1843.

Diagram showing the location of the claim of John McLoughlin, agreeably to surveys of lines of public lands on file in this office.

(Sig'd) F. D. NEWCOMB,
Surveyor General, La.

REC. 319—2

Received and filed on the 24th August, 1843, at the land office at Natchitoches. A correct copy from my office.

JOHN F. PAYNE, *Register.*

his
JOHN + McLOUGHLIN.
mark

REUBEN WHITE.

Attest: JOHN M. LANDRUM.
J. M. LEWIS.

"Ne varietur" this 13th day of September, 1848.

J. O. LEWIS,
Recorder and Notary.

STATE OF LOUISIANA, *Parish of Caddo.*

I hereby certify the above and foregoing to be a true and correct copy of the original diagram, certificate, &c., on file and of
33 record in my office, and annexed to the act of sale from John McLoughlin to Reuben White, and passed 13th September, 1848.

Given under my hand and seal of office on this 14th day of April, A. D. 1859.

(Signed) F. A. LEONARD, *Recorder.*

From minutes.

E. CANNON
vs. } No. 5,186.
R. WHITE.

Default set aside, and answer and exceptions filed, and exception overruled, except that in the second exception.

E. CANNON
vs. } No. 5,186.
R. WHITE.

Default set aside, and exception and answer filed, and upon the trial of the exception, it is ordered that that portion of the exception marked (2,) also such of the exception marked (3) as declares the plaintiff's petition, and the amended petition shows no cause of action, be overruled, and the remaining portions of said exception be ordered to stand as part of the answer.

E. CANNON
vs. } No. 5,186.
R. WHITE.

And now comes the parties by their attorneys, and announced themselves ready for trial. Whereupon came a jury, to wit: J. Close, L. Currie, R. Q. Adams, R. Cain, W. R. Johnson, B. S. Rogers, T. Christian, W. C. Kimball, W. H. Dickerson, and A. V. Du-
34 pree. The regular panel having been exhausted, the sheriff was ordered to summon tallis jurors.

And then afterwards, to wit, April 9th, 1859, the following order was entered, to wit:

E. CANNON
vs. } No. 5,186.
R. WHITE.

And now comes the parties, by their attorneys, whereupon the trial of the cause was resumed. Whereupon came a jury, to wit: John Close, R. Q. Adams, Robert Cain, W. R. Johnson, Thomas Christian, R. C. Kimball, W. H. Dickerson, O. W. Beall, B. T. Scogin, J. A. Reynolds, J. Mereto, twelve good and lawful men of the parish of Caddo, sworn, and charged to try the issues joined between the parties.

The plaintiff having offered part of his evidence, whereupon court adjourned until April 11th, 1859.

Note of evidence.—From book of evidence.

E. CANNON
vs. } No. 5,186.
R. WHITE.

Plaintiff's evidence:

Application of Leonard Dyson, assignee of Edward McLoughlin, and report thereon by the commissioners, filed and marked A. Act of Congress of May 24, 1828, with leave to read from vol. 6, U. S. Statutes at Large, private laws, pages 382 and 383.

Certified copy of act of sale from Leonard Dyson to Stephen
35 Tippett, Jno. H. Mahle, and Isaac Wright, passed before C. E. Greneaux, parish judge, of the date of the 4th of May, 1833, filed and marked B.

Certified copy of act of sale from S. Tippett to Isaac Wright, passed before Jno. H. Johnson, parish judge, dated 13th May, 1835, filed and marked C.

Certified copy of act of sale from Jno. H. Mahle to Isaac Wright, passed before C. E. Greneaux, 5th May, 1835, filed and marked D.

Certified copy of act of sale from Isaac Wright to E. Cannon, passsed before F. Williams, notary public, 28th June, 1840, filed and marked E.

Testimony of Mary B. Atkins, except answers to interrogatories 2d and 3d, and all the 4th, except the last clause beginning with "witness is of the opinion that Mr. Simmons took," and last part of interrogatory of answer 8th, beginning "witness learned" and ending with last of answer, which is rejected, filed and marked F.

Testimony of Mrs. McMullen, taken under same commission, with the exception of answer to 8th interrogatory, which is rejected entire, filed and marked G.

T. H. Pitts, sworn, says:

Knows the defendant, but not the plaintiff; knows Isaac Wright; first knew him on Red river, in '39 or '40; he moved upon

36 Red river, and lived a short while about 600 yards below Pascagoula bayou; lived 30 or 40 yards back from the front; don't think he cultivated any land; he had his wife with him. The defendant now occupies and claims to be the owner of the land where Captain Isaac Wright lives. Wright left a man by the name of William Simmons; Simmons left, witness thinks, in '47, and White came after him. Scarborough and Nisbet lived on the land claimed by defendant. White and Mrs. McMullen (Mrs. Bates that was) occupied and cultivated a field on it before White took possession.

Cross-examined:

All these persons spoke about getting, and witness believes tried to get, pre-emptions, with the exception of Simmons, who was a tenant of Wright, as he heard by Wright and Simmons say. Has heard Simmons say he held under Wright; thinks Simmons took possession in '39, '40, or '41. Witness built a cabin on the land in controversy, with a view to a pre-emption, and afterwards, about '46, sold out his claim. Neither Cannon nor his tenant made objection. Witness was about six weeks in improving; Simmons knew of his intention to pre-empt, and did not object. There was great excitement
37 about getting pre-emptions, but Simmons did not apply, to knowledge of witness; thinks Scarborough purchased a pre-emption claim, or some other kind of , with a view to pre-empt; thinks the map shown him by the plaintiff's counsel represents correctly the relative position of Pascagoula bayou and the Prarie bayou, and marked H.

Re-examined:

When witness was making his improvements Wright was absent, and does not know that Cannon knew anything about it, though Simmons did, as stated above.

John W. Mahle sworn, says:

Is acquainted with defendant, but not with plaintiff. Knows Captain Isaac Wright; known him for twenty years; knew him first in town of Natchitous; he was then a pilot or captain of a steamboat. Wright lived a short time just below the mouth of Pascagoula bayou, on Red river; don't know how long he remained; defendant is in possession of the place occupied by Wright; Wright lived there in the year '39; his wife was with him; he had no children; thinks there was no servants; never visited him there. Simmons lived on the place; after Wright and Simmons, Scarborough and McMullen and Nisbet, and he thinks Ford, all lived on the place in possession
38 of the defendant. Some of them preferred to hold as tenants, and others claimed on their own right. Map H being shown witness, he says that the persons above named resided on the tract marked John McLoughlin, at different points along the river; they were scattered over the McLoughlin tract; defendant succeeded these persons in the possession. Simmons had about twenty acres, more or less, in cultivation; McMullen had about the same, or perhaps more. Nesbit's place had about 8 or 10 acres cleared. Ford

had a small place. Witness can't say exactly as to the quantity as to any of them; thinks there are now 250 acres cleared on the tract. Red river land is worth from 3 to 5 dollars per acre rent. Defendant has cut and sold cord wood; don't know how much wood has been cut and sold; it is worth from $1 50 to $2 per cord. Knew a man by the name of Stryder, John or Henry, don't which. He is now dead. On reflection, witness is satisfied Stryder's name was Henry. Simmons claimed as tenant of Wright.

Cross-examined:

Heard the report of Stryder's death 3 or 4 years ago. Simmons was on the place before '40. Is the son of J. H. Mahle, the vendor of Isaac Wright.

The testimony of Scarborough, taken under commission, except the following parts or wholes of interrogatories and answers, which
39 are to be stricken out, as not received, viz: 2d interrogatory, from the words "as indicated or marked" to "possession commenced," inclusive, rejected; 2d answer, from "he was" to "present time," inclusive, rejected; the 3d interrogatory and 3d answer, both rejected, and portion of 5th answer, viz, "indicated in my reply to the 3d interrogatory;" 13th answer is rejected; 14 interrogatory, from "as indicated on" to the end, rejected; 14 answer, from "except those indicated" to the end, is rejected, filed and marked J.

John M. May sworn, says:

Knows the plantation of Mr. White on the right bank of Red river only from having been over it once or twice; does not think he has been over the upper portions more than twice; has been over the lower portions often; thinks there is 300 or 400 acres in cultivation on said place. This plantation is as good as any other in the neighborhood; does not know what the land was worth per annum rent. Witness and witness's father gave R. White 3 dollars per acre for some, and $3 50 per acre for other land, with gin-house on it. On the opposite bank of Red river the land rented was about such land as the farm in controversy, and White's was worth as much
40 per annum rent. Witness has seen cord wood on the bank at R. White's; the wood, witness supposes, was cut off the place White lived on. Wood sells from $1 50 to $2 50 per cord to steamboats on that part of Red river.

Testimony of Dr. Nesbit, taken by consent, offered in evidence, and marked "K."

The record in the suit of R. White *vs.* Cullen McMullen, on the docket No. 1,640, containing petition answer of McMullen; answer of Cannon, and judgment filed and marked "L," admitted to show same issue—the existence of a previous suit between the same parties for same—of action and tenantry as pleaded.

The record of R. White *vs.* D. McMullen, petition, answer, and judgment filed and marked "M," No. 1,641, admitted; same issue and tenantry pleaded.

The record in 1,644, containing petition, answer, judgment, filed and marked "N."

R. White *vs.* Scarborough, admitted to prove same issue, and tenantry pleaded.

Petition and judgment, 1,643, Wright *vs.* Nesbitt, filed, marked "O," to show same issue.

C. K. Hall, sworn, says he was acquainted with John McLaughlin from 1837, and has been for thirty-five years with R. White. Knows the place of R. White, from its being pointed out to witness
41 in passing, about the year 1848. John McLoughlin told witness he had never lived on the land of White, and that his father had *had* lived in that neighborhood, and that he did not know that he had any claim. John McLoughlin had proposed to sell the same land to witness, and these declarations grew out of it. He told witness he had a right or title, but he did not know how to get it; it was unexpected to him, and he accounted for it by his father having lived there. Did not say how he learned about his title as witness recollects. He told witness he could or would sell to White, if he did not buy. Defendant told witness he had examined into John McLoughlin's title. Never knew Henry Stryder.

R. V. Marye, sworn, says that during the year 1843, he, witness, was a justice of the peace in Caddo parish. Witness knew John McLoughlin when he saw him. Recognizes the paper filed and marked "P," as the affidavit of John McLoughlin, made before witness as justice of the peace, made by said McLoughlin of 12th May, 1843. Witness wrote said affidavit at the instance of John McLoughlin; read the same over to affiant, then swore him to the truth of
42 the statements in the affidavit, and John McLoughlin subscribed it in the manner as stated in said affidavit.

Depositions of Charles Rambin, filed in evidence and marked "Q," admitted except that portion beginning "I doubt" and ending "at right bank descending," in answer to 2d interrogatory.

Testimony of N. Rambin admitted except that portion in answer to the 2d interrogatory beginning "I understood" and ending "at the" parish of Natchitoches, and filed "R."

Testimony of O. Flores admitted, except that part of the 2d answer beginning at "I understood" and ending at "locality," and filed "S."

Testimony of J. B. Lefeat admitted in evidence, and filed and marked "T," except that part of 2d answer beginning "as I" and ending with "myself."

Pierre Robleau. Evidence admitted, filed, and marked "U."

Testimony of L. Ramlin admitted, except that part of the 2d answer beginning at "understood" and ending at the river "descending," filed and marked "V."

Testimony of Simon De Soto admitted and filed, and marked "W."

Testimony of J. C. Lefete admitted, except that portion of the 4th answer beginning at "he told me that R. White," filed and marked "X."

43 Testimony of Louis Lefete admitted in evidence, filed and marked "Y."

William Donovan, sworn, says witness has known three men of the name Nat. Norris, one died at Cloutierville, who was son of Sam. Norris, and the other was Nat. Norris, who is dead, and Nat. F. Norris, his son, who lives in De Soto, as witness believes. Cannot say that the Nat. Norris of Cloutierville was named Nat. A., but has heard that he was dead. Does not know that the name was Nat. A.

J. G. McWilliams, sworn, says that he was acquainted with Henry Stryder. Knew him in Shreveport, and afterwards saw him in New Orleans. Witness was told that he had died in New Orleans by one Gallagher; with Stryder used to do business in Shreveport. Never knew any other man by the name of Stryder in this place. Gallagher, witness believes, told him that Stryder died in his, Gallagher's, house.

H. J. G. Battle, sworn, says is sheriff of Caddo parish. Knows no man in this parish named Henry Stryder; from the tableau (upon which there is no such name) of taxes, and his means of knowledge as sheriff, would be likely to know if there was a man of the name; thinks there is no man now of the name of Stryder. There
44 is no such man as Nat. A. Norris in the parish to the knowledge of witness.

Treaty of gov't with the Caddo Indians, with leave to read from book.

Plat of survey of E. J. Franklin, filed and marked "K."

E. J. Franklin, sworn, says he is a surveyor. Says his commission, received from McCulloch, U. S. surveyor general for Louisiana, he lost a few days since in Tone's bayou. Says that his commission constituted him U. S. deputy surveyor for the State of Louisiana. It is admitted by the defendant's counsel that E. J. Franklin exhibited to J. M. Landrum a certificate purporting to be an appointment from McCulloch, as U. S. surveyor general for Louisiana, appointing the said E. J. Franklin a U. S. deputy surveyor for State of Louisiana. Witness Franklin says the diagram exhibited and marked "K." with the return on the same, is the same made by witness in obedience to the order of the court. Says, according to his instructions in the order given to him, witness, the land could be no where else than the place given by him in the diagram returned. Says, from the junction of Pascagoula bayou and Prarie river to Red river, is about 53 chains or $\frac{5}{8}$ of a mile. Says that he located the
45 survey as made at the place he did, because the instructions to was to locate the land south of Pascagoula bayou on the waters of Red river. When land is bounded by the waters of a river the boundary line is the low-water mark of the river, and when upon the waters, the low-water mark is still the boundary; this, he believes, is the understanding with surveyors. In the survey made by witness, he could not have included a portion of the land between the bayous in looking for a section, because he found enough without crossing township lines, in the body below the bayou, in one township; as a surveyor he is not allowed to cross a township line, by a regulation of the department, where the land can be found without

this. Before the sectionizing of the land surveyed, he could, by a slight change of the diagram, have crossed the Prarie river, and by including a half acre in the fork between it and Pascagoula, a location of six hundred and forty acres would have included very nearly the same lands as he surveyed.

Cross-examined:

Don't know of the existence of a rule in surveying service in laying out a claim to fix the improvements as near the centre as possible. Never located a claim. If he had to locate a claim now with the improvements in the fork of Prarie and Pascagoula rivers, he would not cross the township line immediately north of the fork of the bayou, and such a
46 survey would not include any of the land embraced in the tract surveyed by him. Gave notice to the defendant of the day on which the survey would be made. Had no other papers but those annexed to the return, except surveyor general's township map. Don't know where Leonard Dyson's improvement was. Never on the tract of land surveyed until the survey. He has only been 2 or 3 months in Caddo. In the understanding of surveyors land bounded by vacant lands means vacant lands all round it, or uninhabited lands.

A survey made by H. Watts, on the 11th April, '50, filed and marked "X."

Certified copy of act of sale from Jno. McLoughlin to R. White, 22d June, 1848, filed and marked "1."

Certified copy of act of sale from Jno. McLoughlin to R. White, dated 13th September, 1848, filed and marked "2."

Certified map and survey of H. Bagaly, U. S. deputy surveyor, March 3d, 1848, filed and marked (3.)

Application of John McLoughlin, with accompanying affidavits, filed and marked "4."

Patent of John McLoughlin of 20th Sept'r, 1844, filed and marked "5," offered under allegations of petition.

Act of Congress of 1842, under which the patent issued,
47 with leave to read from the book, 6th July. To be found on pages 491, 492, 493, U. S. Digest, 5 vol., Statutes at Large.

Correspondence of officers of the land department in regard to the claim of Isaac Wright, filed and marked "6," to prove same issue.

Defendant's evidence:

Certificate of claim No. 12 of John McLoughlin, filed and marked "7."

Report in favor of John McLoughlin, offered by plaintiff and filed as "4," on behalf of defendant, filed and marked "8."

Act of Congress of 6th July, 1842, as found 5 Statutes at Large, U. S. Digest, pages 491, 492, 493, with leave to read from the book.

Copy of order of survey, from surveyor general of Louisiana, to locate claim of John McLoughlin, filed and marked "9," of date October 12, 1842.

Certified map and survey attached, H. Bagaly, U. S. deputy surveyor, March 3, 1843, filed and marked "10."

Patent to John McLoughlin, filed and marked "11."
Order to deliver patent, filed and marked "12."
Certified copy act of sale passed before H. J. G. Battle from John McLoughlin, of date 22d June, 1848, with the indorsements of recorder thereon, filed and marked "13."

48 Certified copy of confirmation act from some party before Lewis, notary public, 13th September, 1848, filed and marked "14."

William Donovan, sworn for defendant, says:

Came to this country and first became acquainted with it in 1821. Was about 10 years old. Knew Edward McLoughlin. He built in 1842 in the fork of the Pascagoula and Prarie bayous. Stayed with him in the summer of 1822 for about three months. His house was situated in Prarie river, a short distance below the fork. He had a small clearing around the house, growing corn. Edward McLoughlin had no improvements that he ever saw or heard of on the river across the bayou. The Pascagoula had a small clearing near the river and below Pascagoula, and small huts. All the planting he had in 1822 was that around his house. In the fork is Edward McLoughlin's house. The Indian huts were on the bank Pascagoula, and just below where Pascagoula leaves the river.

Cross-examined:

Can't say how much land the Pascagoula Indians had cleared there. Knew nothing of McLoughlin. The Indians on the land spoken of on or prior to 1819.

Cæser Wallace, sworn for defendant, says:

Lived in the present limits of the parish of Caddo from
49 1817 to 1825. Knew Edward McLoughlin, and knew him in 1819 and before that year. Was at his house about March, in the year 1819. He was living then below the old agency on the uplands, about where the road turns into Norris island. Can't say how long he had been living there, but the place looked new. It was not his house he was living in when he was at McLoughlin's. He, witness, had come out from the bottom. There was no overflow that spring, nor during that winter. Can't remember having seen McLoughlin at this place before. The house was on public land. Can't say he was permanently located, as he never stayed long anywhere. He was a man of family, and had his family with him, *i. e.*, wife and children. In 1816 witness was at the mouth of Pascagoula. There was nothing but some Indian camps. Was not there in 1817. In '33 or '34 was again there, and just in the fork between Pascagoula and Parie river there was an improvement, which witness was told was Edw. McLoughlin's. It was abandoned at that time. In '33 or '34 there was a few acres, 6 or 7, witness can't say how much, about the old house in the fork. There was no clearing then over the Pas-
50 cagoula and on the river, nor any sign of improvements at the time referred below, *i. e.*, '33 or '34. Witness and the party with him were looking for lands.

Cross-examined:

Where McLoughlin was living in March, 1819, Polin Cary had begun an improvement and left it. Does not know when McLoughlin went on this claim, or when he left it. Don't think he was preparing to plant any corn. He was not much given to work. Was sort of a hunter. Witness thinks his first visit was in the latter part of 1815 to the Pascagoula bayou, upon reflection, and not there again until '33 or '34. Don't know between '15 and '33 or '34 who lived on the Pascagoula, as he was not there on that time.

Hailey Watts sworn, says:

That he is parish surveyor of Caddo parish, La. Says he was ordered to survey and locate the claim of Edward McLoughlin in accordance with a copy of the report annexed to the map marked X, to include the improvements of Edward McLoughlin; so as to include 640 acres. That a survey made in accordance with the rules of surveying he would have to run the lines in a perpendicular to the Bayou Pascagoula, and that a line run perpendicular back from the Pascagoula bayou, if it touched the land of defendant at all, it would be very slight, the line rather bearing off from the land of
51 defendant, supposing the improvements of Edward McLoughlin to be between the Bayou Pascagoula and Prarie river and below their junction. Witness says he has had occasion to traverse and survey all the lands at and near the mouth of the Pascagoula bayou, and for some distance down the Pascagoula, and by that means he has become very familiar with the lands and the courses of the Red river and Pascagoula bayou. Witness says that if he was ordered to make or locate 640 acres to include all the settlement of Edward McLoughlin, then according to the rules and regulations as he, the witness, understood them, that after the government has had the lands surveyed that he could not cross established township lines if he can make the survey in the township where the settlement is so as to include the quantity of land called for in the claim. Witness says that the Pascagoula bayou and Prarie river are the waters of Red river, or are bayous running out of Red river. Witness says supposing the settlement of Edward McLoughlin to be between the Pascagoula bayou and Prarie river, and taking the copy of the report annexed to the map marked "X," he does not consider that a location of said claim would have to touch
52 the bank of Red river, but rather the contrary, the calling for the waters of Red river not conveying the idea but rather the reverse by being bounded by the bank of Red river. Witness says the wording of the claim of Edward McLoughlin, annexed to the map marked "X," does not convey the idea to him as a surveyor that the bank of Red river was necessarily *was necessarily* to be a boundary. Witness says he has been parish surveyor of Caddo parish ten or eleven years.

Cross-examined:

By the expression "waters of Red river" he would understand any waters running out or emptying into Red river; this is his own

opinion as a man, not as a surveyor. If he was instructed to lay off 640 acres lying on Red river southeast of Pascagoula bayou, embracing the supposed improvements of Edward McLoughlin in the fork of the Pascagoula bayou and Prarie river, he never could to Red river, because making the improvements the starting point, it would be over the distance allowed the surveyor to Red river, and the reason is because one mile front would be allowed, and the lateral or side lines would be perpendicular to the front line; he understood such was the rule in laying off claims when there has been no survey by the government; never laid off a Rio Hondo claim before the
53 government survey. Has laid off a government donation before a gov't survey in Florida. Before the claim of John McLoughlin had been surveyed the government had surveyed the lands, and in obedience to what he understood to be the requirements of the service against crossing township lines, so much was given to this claim on Red river, it being but a small fraction over what is generally allowed; he means fraction of distance. When witness made the survey in question, in 1859, White was living on it, and C. and D. McMullen had parts in cultivation. Received an order of court in this suit of date the 21st of January, 1859, and returned it on March 30, 1859, as impracticable to make said survey, on account of high water. His commission as surveyor he received from the governor of the State of Louisiana, and he never was examined as to qualification in this State; but in So. Ca. he received *he received* a mathematical education with a view to surveying. He would not in all cases make the same survey before and after the gov't surveys had been made. He does not think that Edward McLaughlin was ever located. From the junction of Pascagoula and Prarie rivers and Red river is about, as he remembers, 60 chains, but he not recollect exactly; is a regularly commissioned surveyor, but has
54 not his commission with him; can't say how long exactly he has held a commission. He has had several commissions from the governors of this State. Boundaries fronting on a river is a common phraseology, is among surveyors; but "fronting to" is uncommon, and it might or it might not carry him to the river; it might front to and yet not be bounded by the river. There is no material difference in witness's intention between it and on a river; he does not think that Edward McLoughlin's claim was ever located, as after the gov't surveys had been made he had surveyed lands about it, and never heard of any location of Edward McLoughlin; has seen such a claim marked.

Re-examined:

Has been a public surveyor nearly 30 years; parish surveyor 10 years or thereabouts; received his education at the State college, South Carolina, at Columbia; Dr. Cooper was president. Surveyors use the same language as other people. Has used the words "lands lying on the waters of a stream" in a popular sense; knows of no technical meaning to said words.

Dr. Robert Nesbit, sworn for the defendant, says:

He resided two years on the land claimed and now occupied by defendant, and on the river near the lower line of the claim. He
55 lived on the southeast corner of section 35 of the lands in controversy, as shown by the map marked "Y," and lived there as occupant, claiming pre-emption, if he could get it, and not as tenant; this was in the years '47 and '48. He had a house and other improvements; he was not certain how much exactly he would get for pre-emption, but he was trying to get the quarter, more or less, he was living on. He gave possession up to R. White when he moved away in 1849, January this year. Is well acquainted with a ; knew Captain Isaac Wright in '48 and prior thereto. Last year, travelling on a steamboat, Wright told witness that he did wrong in giving possession to White, inasmuch as he believed the claim did reach to the land occupied and claimed by witness. Scarborough lived at the upper end of the tract, Simmons next; and McMullen's cultivated land lying below, and Ford and his family next. There was something said about their being tenants of Cannon, but witness did not know the fact of tenantry in 1847. The settlers expected to pre-empt; nothing was said about tenants until White exhibited his title or patent in 1848; was asked to become a tenant and declined. The settlers tried to get up a purse and employ a lawyer to test the title—White and Cannon. Witness signed a paper to that effect.

56 Cross-examined:

Has known that Wright claimed a Rio Hondo claim, but did not know the extent. He did not know whether it would reach Red river or not. Starting on the bank of the bayou, it was a matter of notoriety that the claim started below the fork of Pascagoula bayou and Prarie river. Never knew E. Cannon, and don't know whether he visited the country while the settlers were trying to get pre-emption. Wright did not come on the lands during the years witness resided there. He was there, as witness remembers, on reflection, in '48, and that witness believes he was in Mexico. By the meanderings of the river, from the mouth of Pascagoula bayou to the then residence of the witness, is 4 or 5 miles, he thinks, and by a direct or air-line to about one mile. He went on the land in 1847, buying out the previous occupant. It is about half a mile from the mouth of Pascagoula to its fork, by the usual route of travel. First knew the country in 1839, where he visited Mrs. Wright, wife of Isaac Wright, then living at the Simmons place, next below the Scarborough place, on Red river. Wright then lived there, and was his family home, and it was his own. The Simmons place was about a quarter of a mile below the mouth of Pascagoula, on the river; has every
57 reason to believe that Captain Wright went to Mexico in command of a vessel carrying stores. Witness may be mistaken, but believes he went in that capacity. He was, in '47 or '48, in possession of the Simmons place, who held in his, Wright's, behalf in that time. Never knew anything about the country prior to 1847, except that Simmons held possession as Wright's tenant after Wright left, in 1840 or 1841.

Re-examined:

When he speaks of the fork of Pascagoula bayou, he means the fork of Pascagoula and Prarie river. The claim of Wright, it was a matter of notoriety, was situated below the fork of Pascagoula and the Prarie river, and between the two.

C. W. Blount, sworn for defendant, says:

He came to Bossier in January, and afterwards in April, to Caddo in 1839; lives on defendant's place, below Pascagoula bayou; is defendant's overseer; lived in 1839 just above the Pascagoula, on the Pitts' place; has lived most of the time since 1839 in the same neighborhood; knows Isaac Wright; Bates made an improvement on the tract in 1839, on the lower side of the bend, below bayou, on the river, the same that afterwards D. McMullen had possession of; McMullen married Mrs. Bates. Kink, in 1840, made a settlement
58 still lower down on Red river, on the same tract in the spring of 1840. Knew Captain Isaac Wright in 1839. In 1839 Wright began a settlement with Kink near the mouth of Pascagoula, who afterwards left him and went below to the point on the river, below the Bates claim. Heard Wright say very frequently he did not think his claim would reach as far down as Kink settled, and has Wright say it was doubtful whether the claim would include the Bates improvement; and that if it did he had no objections to its being cleared. There about 480 acres of cleared land on the tract in controversy. It is worth $50 per acre to clear land and put it in condition of this tract—the timber is nearly all removed. There is a good dwelling-house on the place. It cost about $4,000 at would be worth at least $3,000. There are seven double frame negro cabins for negroes with brick chimneys, worth about $250 each. There are also gin-houses—gin and running gear worth about $500 in all. The plantation is under a good fence, and the place is well improved. Defendant settled on the place, or witness saw him living on it, in the fall of '49. Defendant, with his family, lived 4 or 5 years on the place, 5 years, he thinks, cultivating and improving the place
59 every year. Witness knew Jno. McLaughlin; he is dead, and witness thinks died 2 or 3 years ago. Upon reflection witness thinks he must have heard of McLaughlin's death in the fall of 1851, but cannot state distinctly when. Before that McLaughlin sold to White. He knew of his having employed a lawyer to sue for the land in controversy.

Cross-examined:

Has been in the employment of the defendant 5 years at the present place. Never had charge of any other place of defendant. The timber was cut and burned off, but little was sold for cord wood off the cleared land, and but a small quantity ever cut and sold off the whole tract. The tract would be worth in the market from $50 to $55 per acre. Has heard of no wild lands being sold in that neighborhood for years. Don't know what it would be worth. John McLaughlin told witness he once had a Rio Hondo claim below Pasca-

goula, and had settled on it at the mouth. If he could borrow $500 he would employ a lawyer to get the settlers off, and establish his title, or he would give one an interest in the land itself, or pledge the land for payment. It was in '44 or '45 that McLoughlin told him the above. Land in the woods at the time White bought was worth about $4 or $5 per acre. Most of the cord wood sold was cut
60 off from Gilmer's land adjoining White. Gilmer's being near landing, and he wanted to cut..

James Dickson, sworn for defendants, says:

Knows the defendant R. White. Knew him first in Alabama. Defendant moved from Alabama to this State in 1836. Maps filed to accompany record in case of appeal.

Application of Leonard Dyson, assignee of Edward McLoughlin, and report of commissioners thereon filed and marked A.

LAND OFFICE, OPELOUSAS, *May 30th*, 1840.

SIR: I regret the necessity of transmitting the report on private claims without the signature of the receiver, but after so long a delay I have thought it due to the claimants that they should be forwarded at this time. In justification of the course I have to state that the receiver has at all times had free access to the documents, and actually assisted and concurred in the classification, since which time has had ample time to have made up an opinion. I have also to state that he examined the original manuscript, and made such erasures and alterations as he thought proper, and the same has been since transmitted. As the receiver must be perfectly conversant with the documents and classification, and can at all times have access
61 in the office to the copy of my report and remarks, it is hoped, if should be disposed to concur in the report offered by me, or make a separate one, it can be transmitted by mail in time to reach your office as soon as the documents. I hope my conduct in this case may have your approbation, but if it should not the documents can be returned by Col. H. T. Williams, to whom they have been intrusted for transmission by request of claimants. I have the more readily acquiesced in this request on account of the weight of the documents, greater safety, and probable expedition.

I am, very respectfully, your obedient servant,

R. N. KELLY, *Register.*

E. A. SEATON,
Cl'k of the Board.

RECEIVER'S OFFICE, OPELOUSAS, LA.,
June 6th, 1840.

SIR: I herewith transmit you the report on the claims for lands filed in the land office at this place for the joint decision of both register and receiver. This report I have forwarded on believing it to be my duty to do so, that there may be some final had on those claims during the present session of Congress, although it is irregu-

lar and not such a report as was contemplated by the act of Congress, but circumstances has put it out of my power to make a joint
62 report with the register, as contemplated by said act; and it has been with great difficulty that I could obtain the papers for the purpose of making a report at this late term of the session of Congress, owing to the situation in which the register, from the intemperate use of ardent spirits he has closed his office, and will not let any one have access to the papers, or permit any one to do business in his office. If a joint report is absolutely necessary, and the papers are returned, I will do all that is in my power to make such a report, but I am fearful that it will be utterly impossible to do so, so long as the register pursues the course he has done since he came into office. It will be perceived that we have differed in opinion in several cases. I think it would not have been the case if the register had not been in such a situation that it was utterly impossible to do any kind of business with him. It will be seen that there has been testimony filed in several of those claims during the time we were making out the report, which testimony was taken a short time previous thereto, and without the knowledge or consent of either the register or receiver. This testimony, filed at such a late date and under such circumstances, I deem it to be my duty not to take it in consideration, but to form
63 an opinion in the case on such evidence as had been previously filed. The claims No. 89, Antonio Bernado, it will be perceived, is the only claim in the 8th class; by *by* near inspection of the face of the claim it will satisfy any person that the claim is a forgery.

Very respectfully your obed't ser't,

BENJAMIN R. GANTT, *Receiver*.

Hon. JAMES WHITCOMB,
Commissioner of the General Land Office.

162.

John McLoughlin, of the parish of Natchitoches, claims 640 acres of land situated in the late neutral territory between the Rio Hondo and Sabine river, and lying on the right bank of Red river, descending below and contiguous to Pascagoula bay, and about sixty miles by land from the town of Natchithous, founded on habitation and cultivation by the claimant on and prior to the 22d day of February, 1819. The claimant alleges under oath that he settled, occupied, and cultivated the tract claimed on and previous to the 22d day of Feb'y, 1819. The evidence of Pierre Roubin, taken the 14th of January, 1834, states that he has been a long time well acquainted with said John McLoughlin, and that he did, of affiant's own knowledge, inhabit and cultivate a tract of land situate and lying on the west bank of Red river, below and contiguous to Pascagoula
64 bayou, on and prior to the 22d February, 1819; that the improvements were valuable and of a permanent character.

Charles Myers sworn in this claim on the 6th February, 1834, states that the facts and allegations contained in the claimant's notice are true, and that he has known the claimant for more than eighteen years.

Abstract and alphabetical list of Spanish and Rio Hondo claims reported by the register and receiver at Opelousas, State of Louisiana, May 15th, 1840.

No. of claim.	Page.	By whom claimed.	Quantity and locat'n of claim.	Class.
162	116	McLoughlin, John.....	640 acres late neutral territory, right bank Red river, descending below and contig's to Pascagoula bay, 60 miles from Natchitoches.	2. B.

SOUTHWEST'N LAND DIST. OF LA.,
Opelousas, Nov. 1st, 1824.

To the Hon. W. H. Crawford, Sec't'y of Treasury of the United States:

The register and receiver of the SW. land district, in obedience to the act of Congress, entitled "An act providing for the execution of the titles to land in that part of the State of Louisiana
65 situated between the Rio Hondo and the Sabine river," approved March 3d, 1823, and to the act supplemental thereto, approved May 6th, 1824, respectfully report—

14. Leonard Dyson, of the parish of Natchitoches, assignee of Edward McLoughlin, filed his notice claiming by virtue habitation, occupation, and cultivation, a tract of land lying within the late neutral territory, situated on the waters of the Red river, on the southeast side of a cut-off which forms Norrise's island, bounded on all sides by vacant land, and containing 640 acres.

The claim is supported by the following testimony taken before the board:

Samuel Morris and Peter Murphy, being sworn, severally says: That they know the land claimed by Leonard Dyson, as assignee of Edw'd McLoughlin, and described in his above notice; that the same is lying and situated as is therein described; that said tract of land was occupied, inhabited, and cultivated by claimant and those under whom he holds, by their living and growing corn thereon, on and previous to the 22d of Feb'y, 1819; that said occupation, habitation, and cultivation has been continued by the claimant, and those under whom he holds, since that period to the present time, and that
66 the claimant's improvements on the tract claimed at this time includes about five acres.

On this testimony we are of opinion the claim ought to be confirmed and have consequently, in the abstract, classed it with the third class of claims.

All which is respectfully submitted by your most obedient servants,

VALENTINE KING, *Register.*
DAVID L. TODD, *Receiver.*

Abstract containing the whole number of claims embraced in the foregoing report.

THIRD CLASS.

No.	Name of claimant.	Situation of claim.	Quantity acres.	Hun.
14	Leonard Dyson, assignee of Edw'd McLoughlin.	Red river.....	640	00

DAVID L. TODD, *Receiver.*

GENERAL LAND OFFICE,
March 9th, 1858.

I, Thomas A. Hendricks, Commissioner of the General Office, do hereby certify that the annexed, on pages 1 to 3 inclusive, are true and literal exemplifications from the originals on file in this office, and on pages 4, 5, 6 are true and literal extracts from the originals also on file.

In testimony whereof I have hereunto subscribed my name
67 and caused the seal to be affixed at the city of Washington, on the day and year above written.

[L. S.] THOMAS A. HENDRICKS,
Commissioner of the General Land Office.

Act of sale before (copy) from Leonard Dyson, to Tippt, Mahle and Wright, filed in evidence and marked B.

E. H. PENNALL, *D'y Cl'k.*

Before me, Charles E. Greneaux, parish judge and ex officio notary public in and for the parish of Natchitoches, in the State of Louisiana, and in the presence of the undersigned witness, personally appeared Mr. Leonard Dyson, of the same parish, who declared that for and in consideration of the sum of four hundred dollars to him in hand paid by Stephen Tippett, of the parish of Rapides, Jno. H. Mahle and Isaac Wright, of the said parish of Natchitoches, the receipt of which sum the said Dyson hereby acknowledges, he had bargained, sold, transferred, and delivered, and by these presents doth bargain, sell, transfer, and deliver to the said Tippet, Mahle, and Wright, their heirs and assigns forever, all his, said Dyson's right, title, and interest in and unto a certain tract or parcel of land situate and being in the said parish of Natchitoches, on the right bank of Red river, containing six hundred and forty acres, between the Pascagoula and
68 Parie bayous.

In testimony whereof I, the said Leonard Dyson, and the said Stephen Tippet, and John H. Mahle, have signed these presents; the said Mahle for himself, and as agent for the said Isaac Wright, the purchasers as accepting the above sale, at my office in the town

and parish of Natchitoches, in the presence of me, the said judge and notary, and the undersigned witnesses, this 4th day of May, in the year of our lord one thousand eight hundred and thirty-three, the said Leonard Dyson declaring that he could not write his name, has hereto fixed his ordinary mark of a cross.

his
(Signed) LEONARD + DYSON,
mark.
STEPHEN TIPPET,
JNO. H. MAHLE,
For self and as agent of Isaac Wright.

Attest: J. CABLE.
BENJAMIN F. CHAPMAN.
C. E. GRENEAUX,
Parish Judge and ex officio Notary Public.

I do hereby certify the above to be a true copy of the original on file and of record in my office.

Given under my hand and official seal this second day of May, in the year of our Lord one thousand eight hundred and thirty-five.

[L. S.] C. E. GRENEAUX,
Parish Judge.

69 *Copy of act of sale from Stephen Tippet to James Wright.*

Filed in evidence, marked C.

J. H. PENNALL, *D'y Cl'k.*

Before me, John Harris Johnson, parish judge in and for the parish of *of* Rapides, State of Louisiana, and the undersigned witnesses, came and appeared Stephen Tippet, an inhabitant of the State and parish aforesaid, who acknowledged, for the consideration hereinafter expressed, has bargained, sold, transferred, and delivered, and does by these presents bargain, sell, transfer unto Isaac Wright, all of the said parish and State, all his right, title, and interest in and to one undivided third part of a certain tract or parcel of land, situate, lying, and being in the parish of Natchotiches, on the right bank of Red river, the whole tract containing the quantity of six hundred and forty acres, between the Pascagoula and Prarie bayous, and being the same acquired by the said Tippet and Wright and John H. Mahle, by deed of record in the office of the parish judge in and for the parish of Natchitoches, bearing date the fourth day of May, eighteen hundred and thirty-three, executed by Leonard Dyson in favor of said Tippet, Wright, and Mahle, and afterwards held in common by them, to have and to hold the one undivided third
70 part of the above described tract of land, with all the rights and appurtenances thereto belonging, to him, the said Isaac Wright, his heirs and assigns, forever. And the said Stephen Tippet doth covenant and agree that he will warrant and forever defend the one undivided third part of said tract of land against himself and

his heirs, and those claiming by or from him, but not against the claim of any other person whatever.

This sale is made for and in consideration of the sum of three hundred dollars cash in hand paid, the receipt whereof is hereby acknowledged by the said Tippet. And the said Wright agrees to dispense with the production and mention herein of any certificate of the recorder of mortgages of the parish of Natchitoches, as required by the provisions of the civil code of Louisiana.

In testimony whereof the said Stephen Tippet and the said Isaac Wright, here present and accepting, have hereto signed their names this thirteenth day of May, in the year of our Lord eighteen hundred and thirty-five.

(Signed) STEPHEN TIPPET.
ISAAC WRIGHT.

Witnesses:
A. L. BRINGHURST.
W. BAIRD.

Done and passed before me.

JNO. H. JOHNSTON, *P. Judge.*

71 I hereby certify the above and foregoing to be a true copy taken from the original on file and of record in my office.

Given under my hand and official seal at Natchitoches, this fourteenth day of May, eighteen hundred and thirty-six.

C. E. GRENEAUX,
P. Judge.

Mahle to Wright.—Copy of sale filed, marked D.

Before me, Charles E. Greneaux, parish judge and ex officio notary public in and for the parish of Natchitoches, in the State of Louisiana, and in the presence of the undersigned witnesses, personally came and appeared John Henry Mahle, of the same parish, who declared that for and in consideration of the sum of four hundred and fifty dollars to him in ready money paid, the receipt whereof is hereby acknowledged, he doth by these presents bargain, sell, transfer, and convey, without any warranty or recourse whatever, either against himself or his heirs and assigns, to Isaac Wright, also of the said parish, here present and accepting for himself, his heirs and assigns forever, all his, the said Malhe's, right, title, and interest, claim and pretensions whatever, in and to one undivided third of a certain tract of land, situate, lying, and being
72 in the said parish of Natchitoches, on the right bank of Red river, between the Pascagoula and Prarie bayous, the whole of which tract contains six hundred and forty acres, and is the same which was purchased in common by said Mahle and Wright and Stephen Tippet, of the parish of Rapides, of Leonard Dyson, as will appear by authentic act of record in the office of the undersigned parish judge, and bearing date the fourth day of May, eighteen hundred and thirty-three. The said purchaser declared that he

waived and dispensed with the production of the certificate of the recorder of mortgages of this parish respecting the said tract of land.

In testimony whereof the parties have signed these presents in the presence of me, the said judge and notary, and the undersigned witnesses, at my office, in the town and parish of Natchitoches, this fifth day of May, in the year of our Lord one thousand eight hundred and thirty-five.

(Signed) JNO. H. MAHLE.
ISAAC WRIGHT.

Attest:

J. CABLE.
F. C. TANZEN.
C. E. GRENEAUX,
P. Judge and ex officio N. P.

I hereby certify the above to be a true copy of the original on file in my office.

Given under my hand and seal official at Natchotiches, the 29th May, 1835.

C. E. GRENEAUX,
Parish Judge.

73 *Copy of act of sale from Wright to Cannon.*

Filed and marked E.

E. H. PENNALL, *D'y Cl'k.*

Before me, Frederick Williams, notary public in and for the parish of Nachitoches, in the State of Louisiana, duly commissioned and sworn, personally came and appeared Isaac Wright, a resident of the parish and State aforesaid, who declared, for the consideration hereinafter expressed, he doth by these presents bargain, sell, convey, transfer, assign, and set over, with a full guarantee against all troubles, debts, mortgages, claims, convictions, donations, alienations, or other encumbrances whatsoever, unto Elijah Cannon, a resident of the city of New Orleans and State aforesaid, here present and accepting for himself, his heirs, and assigns forever, the following described property, to wit, a certain tract or parcel of land, situate in the parish of Caddo, State of Louisiana aforesaid, on the south of Red river, between the Prarie river and the Pascagoula bayous, being in township (15) fifteen and (16,) range twelve (12) west, confirmed in the name of Leonard Dyson, assignee of Edward McLoughlin, under the report of the register and receiver of the southwestern district of Louisiana, under an act of Congress entitled and act providing for
74 the execution of the titles to land in that part of the State of Louisiana situated between the Rio Hondo and the Sabine river, approved March 3d, 1823, and to the act supplementary thereto, approved May 26th, 1824, and numbered 14, being the same tract or parcel of land which the said Leonard Dyson sold to Stephen Tippet, John Henry Mahle, and the present vendor on the

4th day of May, 1833; and afterwards the present vendor acquired by purchase from the said Stephen Tippet and the said John Henry Mahle all the said Tippet and Mahle's right, title, interest, claim, and pretensions in and to the said tract or parcel of land, together with all the improvements and appurtenances thereon, by authentic act passed on the following dates, from the said Tippet on the 13th day of May, 1835, and from the said Mahle on the day of May, 1835, all of which acts are on file and of record in the office of the parish judge of this parish.

The above sale is made for and in consideration of the sum of eleven thousand dollars—the sum of six thousand dollars cash in hand paid, the receipt of which is hereby acknowledged, the balance of five thousand dollars payable six months from the date of these presents, for which the said purchaser has given his promissory,
75 of even date herewith, payable to the order of the vendor; and the said vendor doth moreover subrogate the said purchaser to all the rights and actions of warranty which he has or may have against his own vendor or against the vendors of his vendor, fully authorizing said purchaser to exercise the said rights and actions in the same manner as he himself might or could have done. The purchaser declared that he waived and dispensed with any certificate from the register of mortgages of this parish respecting the same.

Thus done and passed in my office in the parish of Natchitoches aforesaid, in the presence of the undersigned, witnesses of lawful age, and domiciliated in this parish, who hereunto sign their names, together with the said parties and me, the said notary, on this twenty-eighth day of June, one thousand eight hundred and forty.

(Signed) ISAAC WRIGHT.
(Signed) E. CANNON.

Attest: WM. GRUNAWALL.
THO. P. JONES.
F. WILLIAMS,
Notary Public.

I certify the above and foregoing to be a true copy of the original on file and of record in my office.

Given under my hand and seal of office at Natchitoches, this 29th June, A. D. 1840.

76 F. WILLIAMS, *Not. Pub.*

STATE OF LOUISIANNA, *Parish of Caddo:*

I certify the foregoing to be duly recorded in my office.

Given under my hand and seal of office at Shreveport, this first day of July, A. D. 1840.

(Signed) W. JENKINS, *P. J.*

Interrogatories to Mary Atkins and Mrs. E. D. McMullen, and answers. Filed and marked S.

In the district court of Louisiana.

ELIJAH CANNON
vs.
REUBEN WHITE.

Interrogatories to be propounded to Mrs. Elizabeth D. McMullen, (formerly Mrs. Bates,) Mrs. Mary Atkins, and Mrs. Victoria Hargus, all of the parish of Bossier, and State of Louisiana, the answers to which will be read in evidence on the trial of this cause:

Interrogatory 1st. Are you acquainted with the parties to this suit, and are you also acquainted with Captain Isaac Wright? If so, how long have you known Captain Wright?

Interrogatory 2d. Did Captain Isaac Wright ever reside upon the right bank of Red river, descending? If so, state in what year his residence commenced, and how far he lived below the Pascagoula bayou, and state how many years he resided on said land in person.

77

Interrogatory 3d. Had Captain Isaac Wright a family residing with him on said land? If so, were you in the habit of visiting his family?

Interrogatory 4th. When Captain Isaac Wright removed his family from said land, did he or did he not leave tenants in possession of the same for himself? If so, state their names, and how long they remained in possession of said land as the tenants of Captain Wright.

Interrogatory 5th. State whether or not Captain Isaac Wright claimed the land on which he lived as owner. If so, from whom did he claim to have acquired title?

Interrogatory 6th. Did your husband ever assist Capt'n Wright in building a dwelling or other house on said land? If so, state the year in which it was done, or did your husband ever clear or improve any portion of said land for Capt'n Isaac Wright? If so, in what year?

Interrogatory 7th. Be pleased to state whether or not the land on which Captain Wright resided below the Pascagoula bayou is now in the possession of the defendant, Reuben White; and also state how far you live from said tract of land, and how long you have resided in the neighborhood of the same.

78

Interrogatory 8th. How long have known the defendant, Reuben White? and please state what you have heard him say concerning the fraud practiced in proving up title to said tract of land, in the name of one John McLoughlin, and be pleased to state as near as you can the time when you heard him speak on the subject. And be pleased to state further, whether said fraud was notorious in the said neighborhood of the defendant, Reuben White.

Interrogatory 9th. Be pleased to state whether you ever heard said White speak of said fraud during or prior to the year 1847.

(Signed) LAND & WINANS,
Attys. for Pl'ff.

Service accepted, and time waived, reserving all legal objections to the competency of witnesses, and admissibility of testimony, and all other legal and proper objections.

(Signed) LANDRUM & WILLIAMSON,
Att'ys for Defendant.

79 X-interrogatory 1st. If you heard Mr. White say anything about the matters inquired of, state who else were present, and whether those persons are now living or dead.

(Sig'd) LANDRUM & WILLIAMSON, *Attys.*

We consent that the testimony of the above-named witness shall be taken by Joseph Baird of the parish of Caddo, and that a commission shall issue to him to take the same.

(Sig'd) LANDRUM & WILLIAMS,
Attys. for Def't.

Commission.

The State of Louisiana to Joseph Beard, of the parish of Caddo, State of Louisiana, or to any judge or justice of the peace in and for the same, or to any duly commissioned and authorized officer to take testimony in civil cases, by commission, in and for the same, greeting:

Know ye, that we reposing full and entire confidence in your integrity ability, do hereby empower and authorize you to cite and cause to appear before you Mrs. Elizabeth D. McMullen, Mrs. Mary Atkins, and Mrs. Victoria Hargus, witnesses on the part of the plaintiff in a certain suit now pending in the district court in and for the parish of Caddo, State of Louisiana, No. 5,186, in which Elijah Cannon
80 is plaintiff and Reuben White is defendant, and the answers of the said witnesses, under oath, to the annexed interrogatories you shall reduce to writing, and caused the said answers to be subscribed by said witnesses, and after having duly certified the same under your hand and private seal, you will enclose with this commission and annexed interrogatories, seal and direct the same to the clerk of our said court, on or before the fourth Monday of May, A. D. 1858.

Witness the Hon. David Creswell, judge of our said court, this 28th day of April, A. D. 1858.

(Signed) Q. A. KENNEDY, *Dy. Cl'k.*

Depositions of Mary B. Atkins, opened and filed May 11th, 1858, marked F.

E. CANNON
vs.
R. WHITE.

STATE OF LOUISIANA, *Parish of Caddo:*

Mrs. Mary B. Atkins, first being sworn according to law, an-

swers the interrogatories as propounded in the above-entitled suit as follows:

Interrogatory 1st. Witness is acquainted with Reuben White, but not with Elijah Cannon. Is also acquainted with Captain Isaac Wright and has been acquainted with him ten or twelve years.

Interrogatory 2d. Whole answer stricken out. (Witness
81 never saw Captain Isaac Wright there; but witness's general understanding is and was that Captain Wright did reside there; witness does not swear positively, but thinks his residence commenced there in the year 1839. Witness says that the place understood to be the residence of Captain Wright is half a mile below Pascagoula bayou. Witness is disposed to believe that Captain Wright resided there the largest part of the year in person, but is not positive.)

Interrogatory 3d. Stricken out whole answer. (Did not know by personal knowledge whether Captain Wright had a family there or not; witness did not visit Capt'n Wright, but her general understanding is and was that Captain Wright did have a family there.)

Interrogatory 4th. (Witness visited the family of Willson Simmons, where witness's understanding was that Captain Wright had resided; and Willison Simmons informed witness that he was holding possession for Cap'n Issac Wright. Witness was in the frequent habit of visiting Mrs. Simmons' family in company with Captain Wright on a steamboat, from witnesses own landing; witness swears positively that Wilson Simmons left that residence in the year 184 ,) and wit-
ness is of opinion that Mr. Simmons took his residence for
82 Captain Wright in the year 1840, but does not swear positively as to this.

Interrogatory 5th. Witness never heard Captain Wright say that he claimed the land on which he resided, or from whom he got the land; but in visiting witness to visit his place where Mr. Simmons resided, witness took it for granted that the place was Captain Wright's; and her general understanding was and is that it did belong to Captain Wright. Witness adds that Captain Wright called the place his at which Mrs. Simmons resided, inasmuch as he said that he would land witness at his place.

Interrogatory 6th. Witness has no recollection of her husband assisting Captain Wright in building a dwelling, or any kind of a house; witness does not know of her husband ever claiming land of Captain Wright.

Interrogatory 7th. Witness believes the land on which Capt'n Wright was supposed to reside and where witness visited Mr. Simmons is now in possession of Reuben White; witness resides two or three miles from the place occupied by Wilson Simmons as tenant for
Captain Wright; witness has resided for twenty-three years in
83 the neighborhood of the tract of land before mentioned.

Interrogrtory 8th. Witness has been acquainted with Reuben White for ten or twelve years; witness never heard Mr. White say anything about fraud practiced in proving title to said tract of land, nor anything in connection with John McLaughlin. (Witness

learned from rumor, but has no personal knowledge of the matter, that Mr. White was making efforts to establish a valid claim for himself from false premises.

Interrogatory 9th. Witness never heard Mr. White speak of fraud concerning land at any time.

X-Interrogatory. Witness never heard Mr. White speak of fraud either alone or in the presence of any person or persons at any time.

(Signed) MARY B. ATKINS.

Sworn and subscribed to before me, this 5th day of May, A. D. .

JOSEPH BEARD, *J. P.*

I certify the foregoing to be true answers that was given by Mary B. Atkins to the interrogatories that were propounded to her in the above-entitled suit.

Given officially from under my hand this fifth day of May, 1858, A. D. .

(Sig'd) JOSEPH BEARD,
J. P. in the Sixth Ward of the Parish of Caddo, State of Louisiana.

84 *Answer of Mrs. E. D. McMullen, marked "F."*

State of Louisiana, parish of Caddo.

ELIJAH CANNON
vs.
REUBEN WHITE.

Mrs. Elizabeth D. McMullen, first being sworn according to law, answers the interrogatories as propounded in the above-entitled suit as follows:

Interrogatory 1st. The witness states that she is well acquainted with Reuben White, but is not acquainted with Mr. Elijah Cannon, but is well acquainted with Captain Isaac Wright, and has been acquainted with him since eighteen hundred and thirty-nine.

Interrogatory 2d. The witness states that Captain Isaac Wright did live on the right bank of Red river, descending; witness thinks that Captain Isaac Wright's residence commenced in 1839, but is not positive as to the precise date. Witness thinks his residence was about half of a mile below Pascagoula bayou; witness cannot state how long he resided there in person.

Interrogatory 3d. The witness states that Captain Isaac Wright had his family residing with him on said land; witness states
85 that he visited his family only one time.

Interrogatory 4th. The witness states that when Captain I. Wright moved his family off said land he left tenants in possession of the same; for herself, witness says the name of the tenants was Wilson Simmons and his mother; they remained on the said land as the tenants of Captain Isaac Wright about eight or more years.

Interrogatory 5th. Witness states that Capt. Isaac Wright claimed to be the real owner of the land on which he lived; never heard Wright say how or from whom he acqaired his title.

Interrogatory 6th. The witness states that her husband never assisted Capt. Isaac Wright to build a dwelling-house or any other house that she knows of; witness says that in 1839 her husband did clear and build a house on and cultivate a portion of said land for several years, acknowledging the said Wright as the real and bona fide owner of the same.

Interrogatory 7th. The witness says the land that Captain Wright resided on below Pascagoula bayou is now in the possession of de-
86 fendant, Reuben White. Witness states that she lived several years on the opposite side of the river from said tract of land, and she now lives about eight miles from said tract of land; she states that she has lived in the neighborhood about nineteen years.

Interrogatory 8th. Witness says she has been acquainted with the defendant, Reuben White, about ten years; witness says that she never heard Reuben White speak of any frauds concerning the said land, nor never heard him speak of McLoughlin, nor call his name. Witness says she heard it asked and spoken of that the defendant, Reuben White, was trying to establish a fraudulent claim on the land that was claimed by Captain Isaac Wright.

Interrogatory 9th. The witness states that he never heard the defendant, Reuben White, speak of any frauds concerning the tract of land.

Cross-interrogatory 1st. The witness states she never Mr. Reuben White speak of any of the frauds spoken of.

(Signed) ELIZABETH D. McMULLEN.

Sworn and subscribed to before me, 1st May, 1858.

JOSEPH BEAIRD,
Justice Peace.

87 I certify the foregoing to be the true answers that was given by Elizabeth D. McMullen to the interrogatories that was propounded to her in the above-entitled suit.

Given officially from under my hand, this first day of May, eighteen hundred and fifty-eight.

(Signed) JOSEPH BEAIRD,
Justice of the Peace in the Sixth Ward of the Parish of Caddo, State of Louisiana.

Interrogatories propounded to W. E. D. Scarborough, marked J.

In the 18th district court of the parish of Caddo, Louisiana.

ELIJAH CANNON
vs.
REUBEN WHITE.

Interrogatories to be propounded to W. E. D. Scarborough, of the city of New Orleans, Louisiana, a competent and material witness on the part of the plaintiff to the above-entitled suit, the answers to which will be read in evidence on the trial of said cause.

Interrogatory 1st. Are you acquainted with the parties to this suit? And are you also acquainted with Isaac Wright, the vendor of the plaintiff of a certain tract of land on the right bank of Red river, immediately below the Pascagoula bayou?

88 Interrogatory 2d. How long have you known Isaac Wright, the vendor of the plaintiff? Was he ever in possession of the tract of land lying below and contiguous to Pascagoula bayou, on the right bank of Red river, as indicated or marked out on the map annexed? If so, be pleased to state when the possession commenced, and how long it continued through himself and his tenants and lessees.

Interrogatory 3d. Be pleased to examine the annexed map and state what parts of said tract of land the said Isaac Wright, and his tenants, had actual possession of, designating the same by the number of the section or sections marked upon annexed map; in other words, state upon which of the said sections Dempsy McMullen resided; on which Cullen McMullen resided, or held in possession; on which you, yourself, resided; and state how long the parties aforementioned held the land aforesaid.

Interrogatory 4th. Did the plaintiff or his vendor, Isaac Wright, claim to have purchased said tract of land? If yea, from whom?

89 Interrogatory 5th. How long have you personally known said tract of land? Be pleased to state whether or not William Simmons was in possession of said land when you first became acquainted with it, as the tenant of the plaintiff or his vendor, Isaac Wright; and if so, how long did said tenant remain in possession of said land, and about what time he abandoned the said premises.

Interrogatory 6th. Be pleased to state whether or not the defendant, Reuben White, was fully aware of the possession of said Simmons as tenant of the plaintiff or his vendor, Isaac Wright, long before he purchased the said land from John McLoughlin, and was he also aware of the possession of Dempsy and Cullen McMullen, of yourself and Dr. Nisbet.

Interrogatory 7th. Be pleased to state whether or not you have any reason to believe that Reuben White, the defendant, induced, or used any means to induce Simmons, or any other tenant of the plaintiff, or his vendor, Isaac Wright, to give up the possession of said land to himself. If so, be pleased to state them.

90 Interrogatory 8th. And be pleased to state whether Demp-

sey and Cullen McMullen were in possession of said land at the time of their death, and if so, at what time did they die.

Interrogatory 9th. Be pleased to state who took possession of said lands immediately after the tenant of the plaintiff or his vendor, Isaac Wright, left the same.

Interrogatory 10th. Be pleased to state whether you ever heard the defendant, Reuben White, acknowledge that he came into possession of said land under the tenants, or any of them, of said plaintiff or his vendor, Isaac Wright, or did he promise, at any time, to deliver up the possession of said premises to the said plaintiff or his said vendor, Isaac Wright. Be pleased to state what he said upon the subject.

Interrogatory 11th. Be pleased to state what the nature and extent of the improvements that were made upon said tract of land at the time Reuben White took possession of the same. State the number of buildings and the quantity of cleared land on the *on the*
91 tract claimed by plaintiff, and also state the value of said improvements at the time defendant took possession.

Interrogatory 12th. Be pleased to state whether the plaintiff or his vendor, Isaac Wright, was present in the parish of Caddo, at the time the defendant took possession, and state how long it was afterwards before either of them ascertained that the defendant had taken possession.

Interrogatory 13th. Have you any reason to believe that the defendant, Reuben White, was fully aware of the fraud that had been practiced in proving up the claim of John McLoughlin to the land claimed by plaintiff or his vendor, Isaac Wright, before or at the time he purchased the same from John McLoughlin? If so, be pleased to state the grounds or reasons of your belief.

Interrogatory 14th. Be pleased to state whether the plaintiff or his vendor, Wright, possessed or claimed any other tract of land on or near Pascagoula or Prarie bayous, except the land lying below
92 and contiguous to Pascagoula bayou, on the right bank of Red river, descending, as indicated on the map annexed. If so, state the particular locality of the same.

(Signed) LAND & WINANS,
Atty's for Plaintiff.

Sheriff's return.

On the 3d day of March, 1858, served a certified copy hereof on Reuben White, by handing the same to him, personally, in the town of Shreveport, parish of Caddo.

H. J. G. BATTLE, *Sheriff.*

ELIJAH CANNON
vs. } No. 5,186.
REUBEN WHITE.

Defendant, by his counsel, reserves all legal objections to the competency of the witness, Scarborough, and to the admissibility and competency of the answers as evidence; he specially excepts to the

introduction of the map annexed to be used in evidence in any manner, until the correctness of the diagram and truth and genuineness of the statements, writings, and explanations thereon are proven, and reserves all other legal objections.

Cross-interrogatory 1st. If you heard the defendant say anything about the matter inquired of, state who else was present be-
93 sides yourself, and whether that person, or the persons, are now living or dead.

March 19th, 1858.

(Signed) LANDRUM, *for Defendant.*

Filed March 19th, 1858.

N. E. WRIGHT, *Cl'k.*

Commission.

The State of Louisiana to Charles M. Bradfield, State of Louisiana, or to any judge or justice of the peace in and for the same, or to any other duly commissioned and authorized officer to take testimony in civil cases, by commission in and for the same, greeting:

Know ye, that we reposing full and entire confidence in your integrity and ability, do hereby empower and authorize you to cite and cause to appear before you W. E. D. Scarborough, witness on the part of the plaintiff in a certain suit now pending in the district court in and for the parish of Caddo, State of Louisiana, No. 5,186, in which Elijah Cannon, plaintiff, and Reuben White, defendant, and the answers of said witnesses under oath to the annexed interrogatories you shall reduce to writing, and cause the said answers to be subscribed by said witness, and after having duly certified the same under
94 your hand and private seal, you will enclose, with this commission and the annexed interrogatories, seal and direct the same to the clerk of our said court, on or before the first Monday of May next, 1858.

Witness the Hon. D. Creswell, judge of our said court, this 30th day of May, A. D. 1858.

(Signed) N. E. WRIGHT, *Clerk.* [L. S.]

United States of America, the State of Louisiana, parish of Orleans, city of New Orleans.

Depositions of a witness taken and subscribed before me, Charles M. Bradford, justice of the peace of the parish of Orleans, in the State of Louisiana, duly elected, sworn, and commissioned, and acting as such on the sixth day of April, A. D. eighteen hundred and fifty-eight, of said city, 2d justices court of the city of New Orleans, parish of Orleans, in the State of Louisiana, in pursuance of a commission hereto annexed, and to be read in evidence in a certain cause now pending in the judicial district court of Louisiana, in and for the parish of Caddo, wherein Elijah Cannon is plaintiff and Reuben White is defendant. On the part of the plaintiff, W. E. D. Scarborough, a witness known to me to be of lawful age, being to me

95 at the *at the* time and place aforesaid produced, and being by me first duly sworn upon the Holy Evangelist, and according to law, to testify the truth, the whole truth, and nothing but the truth in regard to the matters in controversy in the suit aforesaid, did then and there, on his oath aforesaid, depose and say, and answers as follows, to wit:

Answer to first interrogatory. I am acquainted with the parties and with Isaac Wright.

Answer to second interrogatory. Have known Isaac Wright thirteen years. (He was in possession of the land indicated. His possession commenced in 1845; it continues to the present time.)

Answer to the third interrogatory. Dempsey McMullen occupied the region indicated by lots 1 and 2, of section 36, from 1845 until I left the vicinity in the fall of 1849. Cullen McMullen occupied the locality embraced in fractional section 26 and the north half of the N. E. ¼ of section 35 during the same period, through which the occupancy of Dempsey McMullen continued. Dr. Nisbet occupied the locality indicated by the front of S. E. ¼ of section 35, on the Red river, where it finally leaves that section. Nisbet's possession
96 began about 1847 and continued until about the spring of 1849. I occupied the portion of section 34 fronting on Pascagoula bayou and Red river. My occupancy began in March, 1846, and continued until October, 1849. Simmons occupied the region indicated by the west half of section thirty-five, and was contiguous to me. His land was about half a mile in front and somewhat less in depth. His occupancy embraced the period between 1845 inclusive, and some time in the spring of 1849.

Answer to fourth interrogatory. Isaac Wright claimed to have bought the land of Leonard Dyson.

Answer to fifth interrogatory. I have personally known the land some 13 years. Wilson B. Simmons (not William Simmons) was in possession of the land (indicated in my reply to the third interrogatory) as tenant of Isaac Wright during the period therein indicated.

Answer to sixth interrogatory. Defendant knew Simmons was in possession of the land as tenant of Wright. He knew the same two years before the purchase stated in the interrogatory. He also knew the possession held by Dempsey McMullen and Cullen McMul-
97 len by Dr. Nisbet and by myself.

Answers to 7th interrogatory. White did offer such inducements. He offered me $100 to deliver possession to him. He also paid Simmons to abandon possession in his behalf, and it was done accordingly. (Nisbet told me that he would abandon possession in favor of White rather than be sued by him. That White would compensate him for the abandonment. After this declaration to me Nesbit actually left the property in White's possession.)

Answers to 8th interrogatory. Dempsey McMullen died 1852; Cullen McMullen died in 1853. The latter, to the best of my knowledge and belief, was in possession of the land up to the time of his

death. Whether Dempsey was in possession of his land at the time of his death I do not know.

Answers to 9th interrogatory. Reuben White did, with the exception of the land occupied by me. I left that in the fall of 1849. My father-in-law, William A. Powell, having some ten days before rented the land to James Caldwell, who continued in possession for some 2 or 3 months, when Caldwell delivered possession to Reuben White for $100.

98 Answers to 10th interrogatory. He told me that he bought the land from John McLoughlin, and that Simmons was going to give him possession. He told Captain Wright in my hearing that he, White, would lease the land from Wright on condition of paying rent, should the suit then pending be decided in favor of Wright, or his principal, Cannon, and of being released from payment of rent should the suit end in favor of White.

Answers to 11th interrogatory. At that time there were between 175 and two hundred acres cleared in the whole tract. The buildings consisted of a storehouse, dwelling, and kitchen on my place; a dwelling, corn-crib, gin-house, and kitchen on the place adjoining mine, occupied by Simmons; a dwelling, crib, kitchen, smoke-house, and, perhaps, a stable on Dr. Nesbit's place; a cabin on the land occupied by Cullen McMullen, and some cotton pens merely on the land of Dempsey McMullen. My place and the places of Nesbit and Simmons were further improved by gardens, surrounded by palings. My

99 place and Simmons's had also small peach orchards annexed to them. The land cleared was worth, at the time indicated in the interrogatory, some $20 or $25 an acre. The buildings and erections alone mentioned were worth some $1,500 or $2,000, including fencing.

Answer to 12th interrogatory. Wright was present in Caddo when the lease was made by him to White of the land occupied by Simmons. Wright was also in the parish when White took possession pursuant to that lease. Wright was absent from the parish when White got possession from a Mr. Fore of that part of the land in controversy lying next below the place of Simmons. I think also that Wright was absent when Dr. Nesbit delivered possession to White. I believe that Cannon was absent in New Orleans during the whole of these transactions. I know not how long Cannon or Wright remained ignorant of the possession thus obtained in their absence by White.

Answers to 13th interrogatory. (At the time of the sale by McLoughlin to White there was a report current in the parish generally

100 that McLoughlin had no claim to the land in controversy. The neighbors in the vicinity of the land told White after the sale, that in their opinion McLoughlin had no shadow of title.)

Answers to 14th interrogatory. They claimed or possessed no other lands that I know, except those indicated on the diagram annexed to the interrogatories and described in my preceding answers.

Cross-interrogatories:

Answers to 1st. Cullen McMullen was present. He is dead. Simmons and Earls were also present, and are dead. I do not remember that other persons were there.

(Signed) M. E. D. SCARBOROUGH.

101 THE STATE OF LOUISIANA,
Parish of Orleans, City of New Orleans:

I, Charles M. Bradford, second justice of the peace for the parish of Orleans, duly elected, sworn, commissioned, and acting as such in and for the city of New Orleans, in the parish of Orleans, in the State of Louisiana, do hereby certify and make known that the foregoing depositions of W. E. D. Scarborough, taken before me on the sixth day of April, A. D. eighteen hundred and fifty-eight, at the time and place in the caption hereof mentioned: That the examinations, responses, and statements of said deponents were reduced to writing by R. H. Bradford, and by the said deponent sworn to and subscribed in my presence at the time and place aforesaid.

In testimony whereof I, Charles M. Bradford, second justice of the peace for the parish of Orleans aforesaid, do hereunto set my hand at the city of New Orleans, in the State of Louisiana, this 6th day of April, A. D. eighteen hundred and fifty-eight.

(Signed) C. M. BRADFORD,
Second Justice of the Peace for the Parish of Orleans.

Deposition of Dr. Nesbit, offered in evidence marked K.

Received, filed, and offered March 22, '59.

C. H. PENNALL, *D'y Cl'k.*

UNITED STATES OF AMERICA,
The State of Louisiana, Parish of Caddo, City of Shreveport:

Depositions of three witnesses taken and subscribed before me, Jonas Robeson, a justice of the peace for ward No. 4, parish of Caddo, in the State of Louisiana, duly elected, sworn, commissioned,
102 and acting as such, on the 24th day of May, A. D. eighteen hundred and fifty-eight, at 11 o'clock a. m. of said day, at my office, in this city of Shreveport, parish of Caddo, in the State of Louisiana, by consent hereto annexed, and to be read as evidence in a certain cause now pending in the district court, parish of Caddo, wherein Elijah Cannon is plaintiff, and Reuben White is defendant, on the part of the plaintiff, a witness known to me to be of lawful age, being to me at the time and place aforesaid produced, and being by me first duly sworn upon the Holy Evangelists, and according to law, to testify to the truth, the whole truth, and nothing but the truth, in regard to matters in controversy in the suit aforesaid, did then and there, on his oath aforesaid, depose and say and answer as follows, to wit:

Robert Nesbit, being sworn, says:

He moved to Caddo parish in 1839, and settled on Red river. Has known Captain Isaac Wright since the fall of 1839; that Capt.

Wright's family were living at that time on Red river, below the Pascagoula bayou, about a quarter of a mile below the mouth, on the banks of Red river. When Capt. Wright moved away from the place he left old Mrs. Simmons, her son, Wilson Simmons, and family in possession. Wilson Simmons acknowledged that he held possession under Capt. Wright; thinks that Simmons left the place
103 in 1848; says that Reuben White, the defendant in this suit, took possession of the premises after Simmons left it, and still has the land in possession. Says that White has the land in cultivation all the way up to the mouth of the Pascagoula bayou. Says that W. E. D. Scarborough was in possession of a portion of the land between Simmons and the Pascagoula bayou, and that he thinks that the possession of Scarborough commenced in 1846, and continued in possession until 1849; that Cullen McMullen was in possession and cultivated a portion of the land below where Simmons lived. There was a man by the name Fare, who lived between Simmons and McMillen; then Dempsey McMillen was in possession and cultivated a piece of land below Cullen McMillen. Affiant was the next one who lived on said tract of land. The possession of Cullen McMillen commenced before he, affiant, went upon the land. That Cullen McMillen was in possession of the land at the time of his death. Affiant thinks he died in 1853. That the possession of Dempsey McMillen commenced previous to affiant's going upon the land himself. That Dempsey McMillen died also in the year 1853. Affiant had some ten or twelve acres under cultivation; thinks that Dempsey McMillen had some fifty or sixty acres under cultivation; that Cullen McMillen had some twenty-five or thirty acres; it might have been more in cultivation; that Fore had some forty or fifty acres under cultivation; that Simmons had fifty acres in cultivation, he thinks; he thinks that
104 Scarborough had about twenty-five acres under cultivation; that the defendant Reuben White is now in possession of all the land above mentioned as occupied by the parties named. (Affiant says that the general rumor was, before Reuben White purchased the land from McLaughlin, that Wright had a Rio Hondo claim that would be established then.)

(Signed) ROBERT NESBIT.

Sworn to and subscribed before me, this the 24th day of May, A. D. 1858.

(Signed) JONAS ROBESON, *J. P.*

THE STATE OF LOUISIANA, *Parish of Caddo, City of Shreveport:*

I, Jonas Robeson, a justice of the peace for ward No. 4, parish of Caddo, duly elected, sworn, commissioned, and acting as such in and for the city of Shreveport, ward No. 4, parish of Caddo, in the State of Louisiana, do hereby certify and make known that the foregoing deposition of Robert Nesbit, Elizabeth Dupree, and J. W. Mahle, taken before me on the 24th day of May, eighteen hundred and fifty-eight, at the time and place in the caption hereof mentioned; that the examinations, responses, and statements of said deponent were reduced

to writing by me, and by the said deponent sworn to and subscribed in my presence at the time and place.

In testimony whereof I, Jonas Robeson, a justice of the peace for ward No. 4, parish of Caddo aforesaid, do hereunto set my hand, at the city of Shreveport, State of Louisiana, this 24th day of May, A. D. 1858.

(Signed) JONAS ROBESON, *J. P.*,
A Justice of the Peace for Ward No. 4, Parish of Caddo.

Record in suit No. 1,460.—*Petition and answer filed and marked L, petition.*

105 To his honor the judge of the district court of the seventeenth judicial district of the State of Louisiana, holding sessions in and for the parish of Caddo:

The petition of Reuben White, a resident of the parish of Bossier, in the said State, respectfully represents that he is the owner of a certain tract of land situated in the parish of Caddo, in the aforesaid State, known and described as follows, to wit: section number thirty-four, (34,) township sixteen (16) north, range twelve (12) west, containing six hundred and twenty-one acres and twenty-three hundredths of an acre lying on the right bank of Red river, descending, immediately below the Pascagoula bayou, and bounded north by Red river, east by Red river and a fraction of section thirty-six, (36,) south by Red river and the township line of township fifteen (15) north, range twelve (12) west, and west by the Pascagoula bayou and Red river, it being the same land recommended for confirmation to John McLaughlin by the register and receiver of the land office at Opelousas, in their reports dated 30th May and 6th June, A. D. 1840, as claim number 162, which said claim was confirmed by an act of Congress, approved July 6th, A. D. eighteen hundred and forty-two, entitled an act confirming certain land claimed in Louisiana, and the right to which was secured to said John McLaughlin by a treaty between the United States government and the government of Spain, entered into in the year of our Lord one thousand eight hundred and
106 nineteen, and for which land a patent has issued from the United States of America to said John McLaughlin.

Petitioner avers that he is now the owner of the above-described land by purchase from said McLaughlin, and of all rights, claims, and demands which the said McMillon may now have or at any time heretofore may have had in and to the said land, or in any manner connected therewith, or growing out of the same.

Petitioner further avers that one Cullen McMillen, a resident of the parish of Bossier, in the said State, is now unjustly, illegally, and in bad faith in possession of said land, and being so in possession, unlawfully withholds and detains the same, and refuses to deliver possession to petitioner, though amicable demand has been made of him.

He further avers that said Cullen McMillen has cultivated and used a field on said land for the last three years, and has used and cut timber off the same. He avers that the use of said field and timber

by him used, and the damage done to petitioner by said trespasser, and the illegal detention of said land from petitioner are worth the sum of one thousand dollars; and that the use of the said land, of which said defendant is now in possession, is worth the sum of one thousand dollars per year.

Wherefore petitioner brings suit and alleges that amicable demand has been made of all the aforesaid sums of said defendant, who refuses to pay the same.

Petitioner prays that said Cullen McMillen be cited and
107 condemned to pay petitioner one thousand dollars, and at the rate of one thousand dollars per year from judicial demand, for the use of said land until possession thereof is given to petitioner, and that plaintiff be decreed to be the owner of the land above described, and that he be put in possession of the same, and that said defendant be ordered to depart from the same.

And petitioner further prays for general relief.

(Signed) GILBERT & LANDRUM,
Att'ys for Pl'ff.

Answer of C. McMillen.

District court.—May term, 1849.

REUBEN WHITE
vs.
CULLEN MCMILLEN.

THE STATE OF LOUISIANA, *Parish of Caddo:*

Cullen McMillen, the defendant in the before-stated case, for answer to the petition of the plaintiff, says that he denies all and singular the allegations contained in the petition of the plaintiff, except that which he here admits. He admits that he is in possession of a tract of land forming a part of section twenty-five in township sixteen N., of range twelve west, and that he has been in the quiet and uninterrupted occupation and cultivation of the same ever since the day of August, 1846; but he avers that he hold and took possession of the said tract of land under a lease from one Elijah Cannon, a resident of the city and parish of New Orleans, who has a just title, translative of property, to the said land claimed by the plaintiff, and now and heretofore occupied by the defendant; and he prays the court to be allowed to cite the said Elijah Cannon in warranty, and that a citation, together with a copy of the petition of the plaintiff and the answer, be issued to the parish of Orleans,
108 citing the said Cannon to appear before this hon'l. court to defend and maintain this defendant in his lease to the premises, and he states that no part of section 34, township 16, of range 12 west, claimed by the plaintiff, touches the land occupied by this defendant.

For further answer, this defendant avers that the plaintiff, White, has no valid title whatever to the land claimed in his petition, and which he alleges to be in the occupancy of this defendant. He avers

that John McLoughlin, the patentee, under whom the plaintiff claims, never settled, lived on, occupied, or cultivated any part of the land fraudulently patented to him, nor had he any claims to said land, or any part thereof, founded on habitation or cultivation; that the affidavit on which the report of the commissioners, and action of Congress confirming the claim in the name of John McLoughlin, were based, was a forgery, and fraudulently procured; that the patent issued thereon is null and void; that the survey and location, under the fraudulent patent, are irregular, and not according to the laws of the land; that John McLoughlin himself never pretended to have any real claim to the land mentioned in the said fraudulent patent, and the survey and pretended location thereof, nor did he ever pretend to have any claim to the land now in the possession of the defendant; that the plaintiff, White, being well acquainted with these facts, and being fully informed by McLoughlin that he, McLoughlin, had
109 no claims to any land in the township and range mentioned in the petition of plaintiff. Still, by persuasion and promise and a mere nominal consideration, he induced McLoughlin to assign and transfer to him the land called for in the patent; that McLoughlin, the patentee, even up to the 13th day of September, 1848, when the last act was passed between him and White in relation to the land, did not know that any patent had ever been issued by the government for the land, although the patent had issued in 1844, in the name of McLaughlin. All of which will appear by the act passed before Lewis, notary, of Caddo, on the 13th day of September, 1848, and other acts between White and McLaughlin.

And this defendant further avers that the said John McLaughlin, in whose name the said fraudulent to land now claimed by the plaintiff, White, issued, did, under the provisions of the treaty between the United States and Spain, claim a tract of land, habitation, and cultivation, prior to the year 1819, about twelve miles above the land on Red river, now claimed by White, at a point on Red river known as Tone Prairie bayou, and that he (McLaughlin) sold his claim to T. Parvier.

Wherefore this defendant prays that if the land claimed by said White, under his said fraudulent patent, shall in any manner touch or interfere with the lands now in possession of this defendant, the said patent, and the survey and pretended location thereof,
110 shall and may be declared null and void, and of no effect against this defendant. And that this defendant may be quieted in his lease, he prays for all necessary process, and for a survey to be ordered by the court, and for general relief; and he prays that the plaintiff's suit be dismissed, and this defendant dismissed with costs.

(Signed) RAYSDON & SPOFFORD, R. W. WOOD,
Att'ys for Def't.

Filed May 10th, 1849.

JNO. M. LEWIS, *Clerk.*

Answer of E. Cannon.

In 17th dist. court, parish of Caddo.

WHITE *vs.* McMULLEN. } No. 1,640.

The answer of Elijah Cannon, a resident of the city of New Orleans, to the petition of plaintiff, and to the answer of defendant, McMullen, citing him in warranty, respectfully sets forth, that he did lease to the said defendant, McMullen, the tract of land referred to in his answer aforesaid, and that the same belongs to a claim of six hundred and forty acres, of which this warrantor is the just owner, and of which he and his vendors have been in peaceable and undisturbed possession for more than thirty years prior to the institution of plaintiff's action; that he holds the same under title translative of property from Isaac Wright, who holds by deed and transfer from Leonard Dyson, assignee of Edward McLaughlin, the original settler, prior to the treaty of 22d February, 1819, between the United States and Spain; that the land in controversy is within what was called the neutral territory, before the treaty aforesaid; that
111 the said Edward or Edmond McLaughlin settled therein in the year 1818, and occupied, inhabited, and cultivated the same for some years thereafter; that he was the only white settler and occupant thereof prior to the 23d Feb'y, 1819; that the Congress of the United States, by the act of March 3d, 1823, and by divers other acts before and after that date, provided for the recognition of an inchoate title in settlers of that character, and pointed out the mode by which such title should be perfected; and that pursuant to the mode it pointed out, Leonard Dyson, as assignee of Edward McLaughlin, (whose rights he had purchased,) did file his notice in the office of the register and receiver, at Opelousas, La., claiming the six hundred and forty acres aforesaid by virtue of habitation, occupation, and cultivation, and furnished the evidence required by law to show that he or his assignor, Ed. McLaughlin, had occupied, inhabited, and cultivated the said tract prior to Feb'y 22d, 1819; that, therefore, the register and receiver aforesaid, on the 1st November, 1824, reported the said claim of Leonard Dyson, assignee, &c., (which claim was numbered 14 in the reports,) as one which ought to be confirmed, and classed it in the abstract amongst the third class of claims; that this claim would have been confirmed by act of Congress of May 24th, 1828, but was merely suspended in that act, until it was ascertained whether it was situated within the limits of the
112 lands claimed by the Caddo Indians, and that it is now well ascertained that said land does not lie within the said limits; that pending this uncertainty Leonard Dyson, by authentic act passed before C. E. Greneaux, parish judge, in the parish of Natchitoches, on the 4th May, 1833, bargained, sold, transferred, and delivered all his right, title, and claims in and to the said tract of land unto Stephen Lippett, John H. Mahle, and Isaac Wright; that afterwards,

to wit, on the 5th May, 1835, the said John H. Mahle, by authentic act before the parish judge of Natchitoches aforesaid, sold and conveyed his undivided third interest in the said land to Isaac Wright, and on the 13th May, 1835, Stephen Tippett, by authentic act before John H. Johnston, parish judge of Rapides, also sold and conveyed his undivided third interest in the same tract of land to Isaac Wright, who thus became sole owner of the claim of Leonard Dyson, assignee of Ed. McLaughlin; that afterwards, to wit, on the 28th June, 1840, this said Isaac Wright, by authentic act passed before Frederick Williams, notary public in and for the parish of Natchitoches, sold and conveyed to this respondent the tract or parcel of land aforesaid, being six hundred and forty acres, on the south side of Red river, in the parish of Caddo, between Prarie river and the Pascagoula bayou, in township fifteen (15) and sixteen, (16,) range (12) west, which includes the land in controversy in this suit. Respondent avers that all these several acts, composing his claim of title,
113 were duly recorded in the proper offices, and that he and his vendors from the original settler, Edward McLaughlin, have had continued, uninterrupted, and peaceable possession of the land under the aforesaid titles and claims since the year 1818. This respondent for further answer adopts all the allegations of the original defendant concerning the fraud, defects, and nullity of the title set up by plaintiff. He avers that said title originated in fraud, and was obtained by false testimony, and that the present plaintiff is, and ever has been, cognizant of its vices and defects, and cannot in law and equity be permitted to profit by it. That John McLaughlin, to whom the patent relied on by plaintiff issued, and who conveyed to plaintiff whatever title he has, did not settle, inhabit, occupy, or cultivate a foot of land below Pascagoula bayou prior to the 23d Feb'y, 1819; that Edward McLaughlin, under whom this respondent claims, was the sole occupant of any portion of the land in controversy prior to that date, but that some designing person, to this respondent unknown, procured the falsed or forged affidavits of one Pierre Roubien and one Charles Myers, to prove to the register and receiver that John McLaughlin had a claim to the land in controversy, and on such false or forged affidavits the register and receiver reported claim No. 162 for confirmation to the defendant at Washington, and said claim was confirmed by act of Congress approved July
114 6th, 1842, and the patent relied on by plaintiff issued thereon on the 20th Sept., 1844, but lay unknown to the patentee, Jno. McLaughlin, and unnoticed by him until the present plaintiff, who, assured by said McLaughlin that he had no claim upon the United States for such a patent, persuaded him by his acts and promises to make the conveyance set forth in his petition some time in the month of , 1848, and that said McLaughlin was thus led to collude with said White, and to assist him in assuming the guise of an innocent purchaser, when, in truth, he was well notified of this respondent's claim, and of the fraud and nullity of the Jno. McLaughlin's patent, and planned the scheme to avoid the consequences thereof, and to defraud this respondent of his rights. Wherefore

this respondent prays that his vendor, Isaac Wright, be cited in warranty to answer hereto, and that the facts and allegations hereinbefore set forth in the original answer of C. McMullen may be inquired of, tried by a jury, and that on a final hearing this respondent be quieted in his possession and title of the land claim, and plaintiff's demand wholly rejected with costs, and if judgment is rendered against this defendant, that he recover the same judgment over against his vendor, Isaac Wright, and that he likewise recover of and from the plaintiff the sum of two thousand dollars for improvements which he alleges that he had made, of that value, in good faith, upon the premises in question. And he also prays for general relief
115 in the premises.

(Signed) RAYSDON & SPOFFORD,
Att'ys for Deft. Cannon.

Judgment.

18th district court, parish of Caddo, State of Louisiana.

R. WHITE
vs.
C. McMULLEN. } No. 1,640.

On motion of plaintiff's counsel, it is ordered, adjudged, and decreed, that this suit be dismissed at plaintiff's costs.

Done and signed in open court, this tenth day of June, A. D. eighteen hundred and fifty-four.

(Signed) H. A. DREW,
Judge of the 17th Dist., presiding for the trial of recused cases in the 18th Dist.

Record in suit, filed and marked "M."—Petition, answer, and judgment.

R. WHITE
vs.
D. McMULLEN. } No. 1,641.

To the honor the judge of the dist. court of the seventeeth judicial district of the State of Louisiana, holding sessions in and for the parish of Caddo:

The petition of Reuben White, a resident of the parish of Bossier, in said State, respectfully represents, that he is the owner of a certain tract of land situated in the parish of Caddo, in the aforementioned State, known and described as follows, to wit: Section number thirty-four, (34,) township sixteen (16) north, range twelve (12) west, containing six hundred and twenty-one acres and twenty-three hundredths of an acre, lying on the right bank of Red river, descending immediately below the Pascagoula bayou, and bounded north by the Red river, east of Red river, and a fraction of section thirty-six, (36,) south by Red river and the township line of township fifteen (15) north, range twelve (12) west, and west by the Pascagoula

116 bayou and Red river; it being the same land recommended for confirmation to John McLaughlin by the register and receiver of the land office at Opelousas, in their reports dated 30th May and 6th June, A. D. 1840, as claim No. 162, which said claim was confirmed by an act of Congress approved July 6th, A. D. eighteen hundred and forty-two, entitled an act confirming certain land claims in Louisiana, and the right to which was secured to said John McLaughlin by a treaty between the United States government and the government of Spain, entered into in the year of our Lord one thousand eight hundred and nineteen, and for which land a patent has issued from the United States of America to said John McLaughlin; petitioner avers that he is now the owner of the above-described land by purchase from said McLaughlin, and of all rights, claims, and demands which the said McLaughlin may now have, or at any time heretofore may have had in and to the said land, or in any manner connected therewith or growing out of the same; petitioner avers that one Dempsey McMullen, a resident of the parish of Bossier, in said State, is now unjustly, illegally, and in bad faith in possession of said land, and being so in possession, unlawfully withholds and detains the same, and refuses to deliver possession to petitioner, though amicable demand has been made of him. He further avers
117 that said Dempsey McMullen has cultivated and used a field on said land for the last three years, and has used and cut timber off the same. He avers that the use of said field and the timber by him used, and the damage done to petitioner by said trespasses, and the illegal detention of said land from petitioner, are worth the sum of one thousand dollars, and that the use of the said land, of which said defendant is now in possession, is worth the sum of one thousand dollars per year; wherefore petitioner brings suit and alleges that amicable demand has been made of all the aforesaid sum of said defendant, who refuses to pay the same. Petitioner prays that said Dempsey McMullen be cited and condemned to pay petitioner one thousand dollars, and at the rate of one thousand dollars per year from judicial demand for the use of said land until possession thereof is given to petitioner, and that plaintiff be decreed to be the owner of the land above described, and that he be put in possession of the same, and that said defendant be ordered to depart from the same; and petitioner further prays for general relief.

(Signed) GILBERT & LANDRUM.
Att'ys for Pl'ff.

Answer of D. McMullen.

THE STATE OF LOUISIANA:

Parish of Caddo district court, May term, 1849.

REUBEN WHITE
vs.
DEMPSEY MCMULLEN.

Dempsey McMullen, the defendant in the before-stated case, for answer to the plaintiff's petition, denies all and singular the

118 allegations contained in the petition of the plaintiff, except what he here admits. He admits that he is in possession of the tract of land forming a part of section thirty-six, (36,) in township (16) north, of range twelve (12) west. That William Bates, then the husband of Elizabeth Butler, and there being a community of property between him, the said Bates, and his wife, in the year 1837, took possession of the said tract of land, and kept and cultivated the same up to the time of his death in the year 1844; that this defendant has intermarried with the said Elizaheth Butler, widow of William Bates, and has ever since his marriage (as his wife had done after the death of her former husband) possessed, occupied, and cultivated the land now in his possession, and that during the lifetime of the said William Bates, one Elijah Cannon, who is a resident of the city and parish of New Orleans, claiming title translative of property to the said tract of land, leased the said land to said Bates, and that this defendant, as the husband of his wife, and in the management of her paraphernal property, claims to hold and occupy the land under the same title and in the same manner; that she and her former husband, Bates, possessed and occupied the same, and as the tenant and lessee of the said Cannon; and he prays to be allowed to cite Elijah Cannon in warranty, and that a citation, together with copies of the plaintiff's petition and this
119 answer, be issued to the parish of Orleans, citing the said Cannon to appear before this hon'ble court to defend and maintain this defendant in his lease, and those under whom he claims to the premises; and he further avers that the land as designated by Nos. of section, township, and range, in the petition of the plaintiff, do not touch or include the land in the occupancy of the defendant and those under whom he claims. For further answer, this defendant avers, that if it should turn out, upon the trial of this cause, that the said Cannon has no just title to the premises now occupied by this defendant, then this defendant and his wife, Elizabeth Butler, and the children of William Bates are entitled to a pre-emption right to the said land, inasmuch as Bates and wife, and this defendant and wife, in continuation have possessed, occupied, and cultivated the said land ever since the year 1837; and he further avers that the plaintiff, White, has no valid title whatever to the land claimed in his petition, and which he alleges to be in the occupancy of this defendant. He avers that John McLaughlin, the patentee, under whom the plaintiff claims, never settled, lived, or occupied, or cultivated any part of the land fraudulently patented to him, nor had he any claims to said land or any part thereof, founded
120 on habitation or cultivation; that the affidavit on which the report of the commissioners and action of Congress confirming the claim in the of John McLaughlin were based, was a forgery, and fraudulently procured; that the patent issued thereon is null and void; that the survey and location under the fraudulent proceedings and patent are irregular and not according to the laws of the land; that John McLaughlin himself never pretended to have any real claim to the land mentioned in the said fraudulent patent and the

survey, and pretended location thereof; nor did he ever pretend to have any claim to the land now in the possession of the defendant; that the plaintiff, White, being well acquainted with these facts, and being fully informed by McLaughlin, that he, McLaughlin, had no claim to any land in the townships and range mentioned in the petition of the plaintiff; still, by persuasion, promises, and a mere nominal consideration, he induced McLaughlin to assign and transfer to him the land called for in the patent; that McLaughlin, the patentee, even up to the 13th day of September, 1848, when the last act was passed between him and White in relation to the said land, did not know that any patent had ever issued by the government for the land, although the patent had issued in 1844, in the name of McLaughlin, all of which will appear by the act
121 passed before Lewis, notary of Caddo, on the 13th day of September, 1848, and other acts between White and McLaughlin; and this defendant further avers, that the said John McLaughlin, in whose name the said fraudulent patent to the lands now claimed by the plaintiff in his petition issued, did, under the provisions the treaty between the United States and Spain, claim a tract of land founded on habitation and cultivation prior to the year 1819, about twelve miles above the land on Red river now claimed by the plaintiff, at a point on Red river known as Tone's Parrier bayou, and that he, McLaughlin, sold his said claim to T. Parrier. Wherefore this defendant prays that if the land claimed by the plaintiff under the aforesaid fraudulent survey, location, and patent shall in any manner touch or interfere with the lands now in the possession of this defendant, the said survey, location, and patent shall and may be adjudged and declared null and void and of no effect against this defendant, and those whose interest he represents; and that this defendant may be quieted in his possession, he prays that a survey of the lands occupied by this defendant may be ordered by this hon. court according to law, whereby it will appear that the lands in possession of this defendant are not included in the lands called for in the patent to McLaughlin, and claimed by plaintiff. He prays for general relief in his defence, and that the plaintiff's suit be
122 dismissed, and this defendant dismissed with his costs, &c.

(Signed) RAYSDON & SPOFFORD,
R. N. WOOD,
Att'ys for Def't.

Filed May 10th, 1849.

JNO. M. LEWIS, *Clerk.*

Judgment.

18th district court, parish of Caddo, State of Louisiana.

R. WHITE
vs. } No. 1,641.
DEMPSEY MCMULLEN.

On motion of pl'ff's counsel, it is ordered, adjudged, and decreed that this suit be dismissed at plaintiff's costs.

Done and signed in open court this tenth day of July, A. D. eighteen hundred and fifty-four.

(Signed) H. A. DREW,
Judge of the 17th Dist., presiding for the trial of recused cases in the 18th Dist.

Record in suit No. 1,644, R. White vs. Wm. Scarborough.—Petition, ans., and judg't filed and marked "N."

To his honor the judge of the district court of the seventeenth judicial district of the State of Louisiana, holding session in and for the parish of Caddo:

The petition of Reuben White, a resident of the parish of Bossier, in said State, respectfully represents that he is the owner of a certain tract of land situated in the parish of Caddo, in the aforesaid State, known and described as follows, to wit, section No. thirty-four, (34,) township sixteen (16) north, range twelve (12) west, containing six hundred and twenty-one acres and twenty-three hundredths of an acre, lying on the right bank of Red river, descending immediately below the Pascagoula bayou, and bounded north by the Red river, east by Red river and a fraction of section thirty-six, (36,) south by Red river and the township line of township fifteen
123 (15) north, range twelve (12) west, and west by the Pascagoula bayou and Red river; it being the same land recommended for confirmation by John McLaughlin by the register and receiver of the land office at Opelousas, in their reports dated 30th May and 6th June, A. D. 1840; also claims No. 162, which said claim was confirmed by an act of Congress approved July 6th, A. D. eighteen hundred and forty-two, entitled an act confirming certain land claims in Louisiana, and the right to which was secured to said John McLaughlin by a treaty between the United States government and the government of Spain, entered into in the year of our Lord one thousand eight hundred and nineteen, and for which land a patent had issued from the United States of America to said John McLaughlin; petitioner avers that he is now the owner of the above-described land by purchase from said McLaughlin, and of all rights, claims, and demands, which the said McLaughlin may now have, or at any time heretofore may have had in or to the said land, or in any manner connected therewith or growing out of the same. Petitioner further avers, that one William Scarborough, a resident of the parish of Caddo, in the said State, is now unjustly, illegally, and in bad faith in possession of said land, and being so in possession, unlawfully withholds and detains the same, and refuses to deliver
124 possession to petitioner though amicable demand has been made of him. He further avers that said William Scarborough has cultivated and used a field on said land for the last two years, and has used and cut timber off the same. He avers that the use of said field and timber by him used, and the damage done to petitioner by said trespasses, and the illegal detention of said land from petitioner are worth the sum of one thousand dollars, and that the use of the

said land of which said defendant is now in possession is worth the sum of one thousand dollars per year; wherefore petitioner brings suit and alleges that amicable demand has been made of all the aforesaid sums of said defendant, who refuses to pay the same. Petitioner prays that said William Scarborough be cited and condemned to pay petitioner one thousand dollars, and at the rate of one thousand dollars per year from judicial demand for the use of said land until possession thereof is given to petitioner; and that plaintiff be decreed to be the owner of the land above described, and that he be put in possession of the same, and that said defendant be ordered to depart from the same; and petitioner further prays for general relief.

(Signed) GILBERT & LANDRUM,
Att'ys for Pl'ff.

Filed Dec. 5th, 1848.

JNO. M. LEWIS, *Cl'k.*

Answer of Scarborough.

State of Louisiana, parish of Caddo, district court, May term, 1849.

125 REUBEN WHITE
vs.
W. E. D. SCARBOROUGH.

William E. D. Scarborough, the defendant in the before stated case, for answer to the petition of the plaintiff, denies all and singular the allegations contained in the petition of the plaintiff, except that which he here admits. He admits that he is in possession of all that portion of land contained in section thirty-four, (34,) township sixteen (16) north, of range twelve (12) west, on the right bank of Red river below the Pascagoula bayou, and that he has been in the quiet and uninterrupted possession, occupation, and cultivation of the same ever since the summer of 1845, but he avers that he holds possession of said tract of land under a lease from one Elijah Cannon, a resident of the city and parish of New Orleans, who has a just title translative of property to the said land claimed by the plaintiff, and now and heretofore occupied by this defendant; and he prays this court to be allowed to cite the said Elijah Cannon in warranty, and that a citation, together with a copy of the plaintiff's petition and a copy of this answer, be issued to the parish of Orleans, citing the said Cannon to appear before this hon'ble court to defend and maintain this defendant in his lease to the premises. This defendant, for further answer, says that if upon the trial of this cause it should turn out that his lessor Cannon has no just title to the land now occupied and cultivated by this defendant, that he avers that he is en-
126 titled to a pre-emption on the land he now holds. And he avers that the plaintiff White has no valid title whatever to the land claimed in his petition, and which he alleges to be in the occupancy of this defendant. He avers that John McLaughlin, the patentee under whom the plaintiff claims, never settled, lived on, occupied, or cultivated any part of the land fraudulently patented to

him, nor had he any claim to said land founded on habitation or cultivation; that the affidavit on which the report of the commissioners and action of Congress, confirming the claim in the name of John McLaughlin were based was a forgery, and fraudulently procured; that the patent issued thereon is null and void; that the survey and location under the fraudulent proceedings and patent are irregular, and not according to the laws of the land. That John McLaughlin himself never pretended to have any real claim mentioned in the said fraudulent patent, and the survey, and pretended location thereof, nor did he ever pretend to have any claim to the land now in possession of this defendant; that the plaintiff White being well acquainted with these facts, and being fully informed by McLaughlin; that he, McLaughlin had no claim to any lands in the land township and range in the plaintiff's petition mentioned, still by persuasion and
127 promises, and a mere nominal consideration, he induced McLaughlin to assign and transfer to him the land called for in the patent. That McLaughlin, the patentee, even up to the 13th day of September, 1848, when the last act was passed between him and White in relation to the land, did not know that any patent had ever issued by the government for the land, although the patent had issued in 1844, in the name of McLaughlin, all of which will appear by the act passed before Lewis, notary of Caddo, on the 13th day of September, 1848, and other acts between White and McLaughlin; and this defendant further avers that the said John McLaughlin, in whose name the said fraudulent patent to the land now claimed by the plaintiff issued, did, under the provisions of the treaty between the United States and Spain, claim a tract of land founded on cultivation and habitation, prior to the year 1819, about twelve miles above the land now claimed by the plaintiff on Red river, at a point on the river known as Tone Parrier bayou, and that he, McLaughlin, sold his said claim to T. Parrier, wherefore this defendant prays that the survey, location, and patent, under which the plaintiff claims the land now in the possession of this defendant, may be adjudged and declared null and void, and of no effect against this defendant; and that this defendant may be quieted in his lease and possession
128 of the same, he prays that a survey of the land occupied by this defendant may be ordered, and for all relief in his defence. And that the plaintiff's suit may be dismissed, and this defendant dismissed with his costs, &c.

(Signed) RAYSDON & SPOFFORD.
R. N. WOOD,
Att'ys for Def't.

Filed May 10th, 1849.

JNO. M. LEWIS, *Cl'k.*

Judgment.

18th district court, parish of Caddo, State of Louisiana.

REUBEN WHITE
vs.
WM. SCARBOROUGH. } No. 1,644.

On motion of pl'ff's counsel, it is ordered, adjudged, and decreed that this suit be dismissed at pl'ff's costs. Done and signed in open court this July 10th, A. D. eighteen hundred and fifty-four.

(Signed) H. A. DREW, *Judge of the 17th dist.,*
Presiding for the trial of recused cases in the 18th dist.

Record in suit 1,643, *R. White vs. Rob't Nesbit.—Petition and judg't filed and marked "O."*

To his honor the judge of the district court of the seventeenth judicial district of the State of Louisiana, holding in and for the parish of Caddo:

The petition of Reuben White, a resident of the parish of Bossier in said State, respectfully represents that he is the owner of a certain tract of land situated in the parish of Caddo in the aforesaid State, known and described as follows, to wit: Section
129 number thirty-four, (34,) township sixteen (16) north, range twelve (12) west, containing six hundred and twenty-one acres and twenty-three hundredths of an acre, lying on the right bank of Red river, descending, immediately below the Pascagoula bayou, and bounded north by the Red river, east by Red river and a fraction of section thirty-six (36.) south by Red river and the township line of township fifteen (15) north, range twelve (12) west, and west of the Pascagoula bayou and Red river. It being the same land recommended for confirmation to John McLaughlin by the register and receiver of land office at Opelousas in their reports dated 30th May and 6th June, A. D. 1840, as claim number 162, which said claim was confirmed by an act of Congress, approved July 6th, A. D. eighteen hundred and forty-two, entitled an act confirming certain land claims in Louisiana, and the right to which was secured to John McLaughlin by a treaty between the United States government and the government of Spain, entered into in the year of our Lord one thousand eight hundred and nineteen, and for which land a patent has issued from the United States of America to said John McLaughlin; petitioner avers that he is now the owner of the above-described land by purchase from said McLaughlin, and of all rights, claims, and demands which the said McLaughlin may now have, or at
130 any time heretofore may have had, in or to the said land or in any manner connected therewith, or growing out of the same; petitioner further avers that one Robt. Nesbit, a resident of the parish of Caddo in the said State, is now unjustly, illegally, and in bad faith in possession of said land, and being so in possession, unlawfully withholds and detains the same, and refuses to deliver possession to petitioner, though amicable demand has been made of him. He fur-

ther avers that said Robert Nesbit has cultivated and used a field in said land for the last two years, and has used and cut the timber off the same. He avers that the use of said field and timber by him used, and the damage done to petitioner by said trespasses, and the illegal detention of said land from petitioner, are worth the sum of one thousand dollars, and that the use of said land of which said defendant is now in possession is worth the sum of one thousand dollars per year. Wherefore petitioner brings suit, and alleges that amicable demand has been made of all the aforesaid sums of said defendant, who refuses to pay the same. Petitioner prays that said Robert Nesbit be cited and condemned to pay petitioner one thousand dollars and at the rate of one thousand dollars from judicial
131 demand for the use of said land, until possession thereof is given to petitioner, and that plaintiff be decreed to be the owner of the land above described, and that he be put in possession of the same, and that said defendant be ordered to depart from the same; and petitioner further prays for general relief.

(Signed) GILBERT & LANDRUM,
Att'ys for Pl'ff.

Filed Oct. 5th, 1848.

JNO. M. LEWIS, *Cl'k.*

Judgment.

18th dist., parish of Caddo, State of Louisiana.

REUBEN WHITE *vs.* ROBERT NESBIT. } No. 1,643.

On motion of plaintiff's counsel it is ordered, adjudged, and decreed that this suit be dismissed at plaintiff's costs. Done and signed in open court this tenth day of July, A. D. eighteen hundred and fifty-four.

(Signed) H. A. DREW,
Judge of the 17th Dist., presiding for the trial of recused cases in the 18th dist.

Affidavit of John McLaughlin.—Filed and marked "P."

STATE OF LOUISIANA, *Parish of Caddo.*

This day personally came and appeared before me, an acting justice of the peace in and for the State and parish above written, John McGlocklin, who, after being sworn in due form of law, declares that he is now fifty years of age, and a resident of this parish and further, that he never did at any time previous to the twenty-
132 second day of February, eighteen hundred and nineteen, or at any time in that year, reside below the bayou, then called Prairie river, but known as Pascagoula, which bayou lies between Red river and the Bayou Pierrie, and is within the limits of this parish, and that he consequently could not, under the treaty with Spain, be entitled to what is called a Rio Hondo claim, but that

it is within his knowledge that Edward Maglochin, his father, did reside and cultivate below and on said bayou on the said twenty-second day of February, 1819, and for several years previous; deponent further says that it is within his knowledge that his father Edward Maglouchlin, transferred by sale his claim on said bayou to one Leonard Dyson, and that said Dyson, as assignee of Maglouchlin made regular entry of the same before the land commissioners sitting at Natchitoches, for the purpose, under the acts of 1823 and 1824, and this deponent further saith not. The word below in the eleventh line interlined, before signing.

(Signed) JOHN his + mark MAGLOCHLIN.

Sworn to and subscribed by making his usual mark (not being able to write) before me, this 12th day of May, 1843.

ROBERT V. MARYE,
Justice of the Peace.

Interrogatories propounded to Charles Rambin et al.—Filed and marked "Q."

133 In the district court of the Parish of Caddo, Louisiana.

ELIJAH CANNON
vs. } No.
REUBEN WHITE.

Interrogatories to be propounded to Pierre Raubien or Robleau, to Joseph C. Lafitte, Gary Sylvesposso, Onofre Flores, Schute Lafitte, Louis Lafitte, Lester Rambin, Charles Rambin, Nevill Rambin, J. O. Paisoit, Philip Flores, Pedro Flores, Robin Casey, Simon Desoto, and Henry Stryder of the parish of Desoto and State aforesaid, competent and material witnesses on the part of the plaintiff to the above-entitled suit, the answers to which will be offered in evidence on the trial of said cause.

Interrogatory 1st. Be pleased to state the place of your birth, the place of your residence since your childhood, your age and profession or occupation.

Interrogatory 2d. Be pleased to state whether you were acquainted personally with Edward McLaughlin. If yea, state where he resided in the years 1817, 1818, and 1819, and state the particular locality his settlement or improvements in the years mentioned, and the nature of the same.

Interrogatory third. Be pleased to state whether or not there was any other settlement or improvement near that of Edward McLaughlin in the years 1817, 1818, 1819. If so, state to whom such
134 settlement or improvement belonged; and also state how far it was from the settlement of Edward McLaughlin to that of his nearest neighbor in the years 1817, 1818, and 1819.

Interrogatory fourth. Be pleased to state whether you were per-

sonally acquainted with John McLaughlin, the son of Edward. If so, state whether or not he had a settlement or improvement on the right bank of Red river, descending, below and contiguous to the Pascagoula bayou. If so, state the particular locality of his settlement, and the nature or character of his improvements. And state what you have heard him say on the subject.

Interrogatory fifth. Be pleased to state whether or not the land which Edward McLaughlin occupied, cultivated, and inhabited in the years 1817, 1818, and 1819, was within the limits of the lands claimed by the Caddo Indians; and state whether or not the lands claimed by the Caddo Indians extended below or south of the Pascagoula bayou.

Interrogatory sixth. Be pleased to state whether or not Edward McLaughlin ever assigned or transferred his claim to the land on which he had a settlement, and on which he resided in the
135 years 1817, 1818, and 1819. If so, to whom.

Interrogatory seventh. Be pleased to examine the annexed certified copy of the application of Leonard Dyson, assignee of Edward McLaughlin, to the register and receiver of the land office at Opelousas, and state whether the land therein described was the land occupied, cultivated, and inhabited by Edward McLaughlin on and prior to the 22d day of February, A. D. 1819, and which he had previously occupied and cultivated in the years 1817, 1818; and also state by what name the cut-off mentioned in said application of Leonard Dyson, assignee, is now known, and by what name the island therein mentioned is now known.

Interrogatory eighth. Be pleased to examine the annexed certified copy of the report of the register of the land office at Opelousas, on the claim of John McLaughlin, and state whether or not John McLaughlin settled, occupied, and cultivated the tract of land therein described on and previous to the 22d day of February, 1819, or at any other time before or after said last mentioned date.

Interrogatory ninth. Be pleased to state whether or not you know Charles Mayers, whose name is mentioned in said report.
136 If so, state what was his general character; also, state whether or not you were acquainted with Pierre Roubien or Robleau, whose name is also mentioned in said report; and if so, state what was his general character.

Interrogatory tenth. Be pleased to state whether or not you were personally acquainted with Leonard Dyson. If yes, state whether or not he ever claimed or owned any land on or near Pascagoula bayou or Prairie bayou or river, except the Rio Hondo claim of Edward McLaughlin. If so, state the locality of such land or claim.

Interrogatory eleventh. Be pleased to state whether you have any interest in the event of this suit, or in the Rio Hondo claim of Edward McLaughlin, or of John McLaughlin, and whether all the witnesses herein mentioned are living or dead.

The following interrogatories are propounded to Pierre Roubien or Roblieu alone:

Interrogatory twelfth. Did you ever hear that yourself and one

Charles Mayers were since to have proven up the claim of John McLaughlin mentioned in the annexed report of the register of the land office at Opelousas? If yea, state whether or not you made the affidavit mentioned in said report, or any other affidavit at
137 any other times to the facts or any of them mentioned in said report.

Interrogatory thirteenth. State whether or not the affidavit mentioned in said report as having been made by yourself was genuine, or false and fraudulent.—Signed Land & Winans, att'ys for pl'ff.

Interrogatory fourteenth. Were you ever examined before, or given evidence as to said affidavits? What was the name of your father? Have you the same Christian and surname name that he had? Is he now dead, and was there any other person of his Christian and surname in the parish of Natchitoches between the years 1830 and 1840?—Signed Land & Winans, att'ys.

Copy of reports attached int'ys.

No. 14.

Leonard Dyson, of the parish of Natchitoches, assignee of Edward McLaughlin, filed his notice, claiming, by virtue of habitation, occupation, and cultivation, a tract of land lying within the neutral territory situated on the waters of the Red river, on the southeast side of a cut-off which forms Norris island, bounded on all sides by vacant land, and containing six hundred and forty acres. The claim is supported by the following testimony, taken before the board:

Samuel Norris and Peter Murphy being duly sworn, several-
138 ly says that they know the land claimed by Leonard Dyson, assignee of Edward McLaughlin, and described in his (above) notice; that the same is lying and situated as is therein described; that said tract of land was occupied, inhabited, and cultivated by the claimant, those under whom he holds, by their living and growing corn thereon in and previous to the 22d of February, 1819; that said occupation, habitation, and cultivation has been continued by the claimant and those under whom he holds since that period to the present time, and that the claimant's improvements of the tract claimed at this time includes five acres.

On this testimony we are of opinion that this claim ought to be confirmed, and have consequently in the abstract classed it in the third class of claims.

LAND OFFICE AT OPELOUSAS, LA.,
April 9th, 1844.

I do hereby certify the foregoing to be a true copy of the report of the register and receiver at Opelousas on claim No. 14, dated November 21st, 1824. In faith whereof I have hereunto set my hand and seal of office on the day, month, and year above written.

[L. S.] P. HEBRARD, *Register*.

No. 162.

John McLaughlin, of the parish of Natchitoches, claims 640 acres of land situated in late neutral territory between the Rio Hondo and Sabine rivers, and lying on the right bank of Red river,
139 descending below and contiguous to Paxagoula bayou, and about sixty miles by land from the town of Natchitoches, founded on habitation and cultivation by the claimant on and prior to the 22d day of Feb'y, 1819.

The evidence of Pierre Roubien, taken the 14th Jan'y, 1834, states that he has been a long time acquainted with said John McLaughlin, and that he did, of affiant's own knowledge, inhabit and cultivate a tract of land situated and lying on the west bank of Red river, below and contiguous to Pascagoula bayou, on and prior to the 22d day of Feb'y, 1819; that the improvements were valuable and of a permanent character.

Charles Mayers, also sworn in this claim on the 6th Feb'ry, 1834, states that the facts and allegations contained in the claimant's notice are true, and that he has known the claimant for more than 18 years.

LAND OFFICE, OPELOUSAS, LA.,
May 24th, 1857.

I hereby certify the above and foregoing to be a true copy of the original report of the register of the land office at Opelousas in the claim of John McLaughlin, No. 162, made the 30th May and the 6th June, 1840; and I do further certify that the same was confirmed by the 7th section of the act of Congress approved July 6th, 1842.

Entered, "An act confirming certain land claims in Louisiana."

(Signed) R. BENGUM, *Reg'r.*

On the 3d day of March, 1858, served a certified of the
140 within interrogatories on Reuben White by handing the same to him personally in the town of Shreveport, parish of Caddo.

H. J. G. BATTLE, *Sheriff.*

Defendant reserves all legal objections to the competency of the witnesses and the admissibility of the answers, and to the competency of the questions, and generally reserve all legal objections of every character, and consent to the additional 14th interrogatory.

March 6th, 1858.

(Signed) J. M. LANDRUM, *for Def't.*

I waive time to issue commission, reserving the right to cross the interrogatories, and to hand the same to counsel before testimony taken, who agrees to have them annexed to be answered.

M'ch 6th, 1858.

J. M. LANDRUM, *for Def't.*

It is ordered that a commission issue to take the deposition of the witnesses named in the within interrogatories.

Done and signed in office, this M'ch 1st, 1858.

N. E. WRIGHT, *Clerk.*

Commission.

The State of Louisiana to Reuben Munday, or to any other justice of the peace for De Soto parish, State of Louisiana, or to any judge or justice of the peace in and for the same, or to any other duly commissioned and authorized officer to take testimony in civil cases by commission in and for the same, greeting:

141 Know ye, that we, reposing full and entire confidence in your integrity and ability, do hereby empower and authorize you to cite and cause to appear before you Pierre Roubien or Robleau, Joseph C. Lafitte, Josey Sylvesposso, Onofre Flores, Tchute Lafitte, Louis Lafitte, Lestor Rambin, Charles Rambin, Nevill Rambin, J. O. Poissot, Phillip Flores, Pedro Flores, Robin Casey, Simon Desoto, and Henry Stryder, witness on the part of in a certain suit now pending in the district court in and for the parish of Caddo, State of Louisiana, numbered 5,186, in which Elijah Cannon, plaintiff, and Reuben White, defendant; and the answers of the said witnesses under oath to the annexed interrogatories you shall reduce to writing, and cause the said answers to be subscribed by said witnesses; and, after having duly certified the same under your hand and private seal, you will enclose with this commission and annexed interrogatories, seal and direct the same to the clerk of our said court on or before the 4th Monday in May, 1858.

Witness the honorable David Cresswell, judge of our said court, this 6th day of March, A. D. 1858.

(Signed) N. E. WRIGHT, *Clerk.*

In the district court for the parish of Caddo, State of Louisiana.

THE STATE OF LOUISIANA, PARISH OF DE SOTO:

ELIJAH CANNON
vs.
142 REUBEN WHITE.

Depositions of nine witnesses taken and subscribed before me, C. M. Pegnes, one of the justices of the peace for the parish of De Soto, in the State of Louisiana, duly elected, sworn, commissioned, and acting as such on the 10th, 11th, 12th, 13th, and 18th days of March, A. D. one thousand eight hundred and fifty-eight, at my office, and at the residence of last witness, in said parish of De Soto, in the State of Louisiana, in pursuance of a commission hereto annexed, and to be read as evidence in a certain cause now pending in the district court in and for the parish of Caddo, State of Louisiana, wherein Elijah Cannon is plaintiff and Reuben White is defendant. On the part of the plaintiff, Charles Rambin, Neville Rambin, Onofre Flores, J. B. Lafitte, alias Chute Lafitte, Pierre Robleau, Lestan Rambin, Simon Desoto, Joseph C. Lafitte, and Louis Lafitte, witnesses known to me of lawful age, being to me at the time and place aforesaid produced, and being by me first duly sworn upon the Holy Evangelists and according to law, to testify to the truth, the whole

truth, and nothing but the truth, in regard to the matters in controversy in the suit aforesaid, did then and there, on their oath aforesaid, depose and say and answer as follows, to wit:

Depositions of Charles Rambin, filed and marked Q.

143 *Answers of Charles Rambin.*

Ans. first. I was born twelve miles from the present location of Mansfield, in the parish of Natchitoches, and always resided in said parish, in that portion of it now called the parish of Desoto. I do not know my age exactly, being about forty-eight or forty-nine years old; my business is farming.

Ans. 2d. I was personally acquainted with Edward McLaughlin. (I do not know where he resided in those years, but understood that he resided on Red river in the parish of Natchitoches on the right bank, descending.) I do not know the particular locality of his settlement in the years mentioned, nor the nature of his improvements.

Ans. 3d. I do not know whether there was or was not any improvement near that of Edward McLaughlin in the years 1817, 1818, and 1819, nor do I know how far it was to his nearest neighbors in these years.

Ans. 4th. I was acquainted with John McLaughlin, the son of Edward. I do not know that he, John McLaughlin, had any settlement on the right bank of Red river, descending.

Ans. 5th. The Caddo Indians claimed no land below Pascagoula bayou.

Ans. 6th. I do not know.

Continued:

144 Ans. 7th. I do not know that those were the lands occupied, cultivated, and inhabited by Edward McLaughlin on and prior to the 22d day of Feb'ry, A. D. 1819. The cut-off mentioned in the report is now known as Pascagoula bayou, and the island mentioned as Norris island is now known as Rush island.

Ans. 8th. I do not know.

Ans. 9th. I do not know said Mayers. I know Pierre Robleau of the parish of Natchitoches, the father, who is now dead. I also know his son, Pierre Robleau, who is now living; Pierre Robleau, the father, was a very good man, and a man of truth.

Ans. 10th. I think that I once knew a man by the name of Leonard Dyson.

Ans. 11th. I have no interest in this suit; Pierre Robleau, the father, Joseph Sylvesposso, J. O. Poissot, Philip Flores, and Robin Casey are dead; Joseph C. Lafitte, Onofre Flores, Chute Lafitte, Louis Lafitte, Lestin Rambin, Nevile Rambin, Pedro Flores, and Simon Desoto are living. I do not know whether Henry Strider is dead or not.

(Signed) his CHARLES + RAMBIN. mark.

Sworn to and subscribed before me, on this the 10th day of March, A. D. 1858.

C. M. PEGNES,
Justice of the Peace.

Answers of Nevile Rambin, filed and marked R.

Answers of Nevile Rambin.

145 Ans. 1st. I was born in the parish of Natchitoches, in that portion of it now called the parish of De Soto, and have always resided therein. I am about fifty-eight years old; I am a planter.

Ans. 2d. I was personally acquainted with Edward McLaughlin; I was not at his residence during the years 1817, 1818, and 1819. (I understood that he lived somewhere in the Red river bottom, in the parish of Natchitoches.) I do not the particular locality of his settlement, nor the value of his improvements.

Ans. 3d. The nearest neighbor to Edward McLaughlin in the years 1821 or 1822 was Baptiste Vincant; I do not know how far it was Edward McLaughlin to Baptiste Vincant.

Ans. 4th. I do not think that the Caddo Indians had any claim to lands below the Pascagoula bayou.

Ans. 6th. I do not know.

Ans. 7th. I do not know that those were the lands occupied, cultivated, and inhabited by Edward McLaughlin on and prior to the 22d day of February, A. D. 1819. The cut-off mentioned in the report I do not know what it is called, but the island mentioned as Norris island is now called Rush island.

Ans. 8th. I do not know.

Ans. 9th. I do not know Charles Mayers; I know Pierre
146 Robleau, of the parish of Caddo, the father, who is now dead. I also know his son Pierre Robleau, who is now living; Pierre Robleau, the father, has been dead about four, five, or six years; he was a man of good character.

Ans. 10th. I know Leonard Dyson, and think that he was also known by the name of Baptiste Vincant; if he owned or claimed any other land on Pascagoula bayou or Prairie river except the Rio Hondo claim of Edward McLaughlin I do not know it.

Ans. 11th. I have no interest in this suit. Pierre Robleau, the father, Joseph Sylvesposso, Jo. Poissot, Philip Florence, and Robin Casey are dead; Joseph C. Lafitte, Onofre Flores, Chute Lafitte, Louis Lafitte, Lestan Rambin, Pedro Flores, and Simon Desoto are living. I do not know whether Henry Strider is dead or not.

(Signed) his NIVILLE + RAMBIN. mark.

Sworn to and subscribed before me, on this the 10th day of March, 1858.

(Signed) C. M. PEGNES,
Justice of the Peace.

Ans. of Onofre Flores, filed and marked S.

Answers of Onofre Flores.

Ans. 1st. I was born in Texas; moved from there to the parish of Natchitoches, Louisiana, whilst I was a child, and have lived since that time to the present in that portion of said parish now
147 called Desoto parish. I am about forty-five years old; I am a farmer.

Ans. 2d. I remember seeing Edward McLaughlin when I was very young. (I understood that he lived somewhere on Red river, but I do not know the particular locality.)

Ans. 3d. I do not know.

Ans. 4th. I was personally acquainted with him; I do not know that he had any settlement on Red river below Pascagoula bayou; I never heard him say anything about it.

Ans. 5th. As to the first part of the interrogatory I do not know; I heard that the Caddo Indians claimed no lands below Pascagoula bayou.

Ans. 6th. I do not know.

Ans. 7th. As to the first part of the interrogatory I do not know. The cut-off mentioned in the report is now called Pascagoula bayou, and Norris island therein mentioned is now known as Rush island.

Ans. 8th. I do not know.

Ans. 9th. I never knew Charles Mayers; I knew Pierre Robleau, the father, and I also know Pierre Robleau, the son; the character of both is good as to truth and veracity; Pierre Robleau, the father, is dead.

Ans. 11th. I have no interest in this suit. Pierre Robleau, the father, Joseph Sylvesposso, Jo. Poissot, Philip Flores, and
148 Robin Casey are dead; Joseph C. Lafitte, Pedro Flores, Chute Lafitte, Louis Lafitte, Lestan Rambin, and Simon Desoto are living. I do not know whether Henry Strider is dead or not.

(Signed) O. FLORES.

Sworn to and subscribed before me, on this the 11th day of March, 1858.

(Signed) C. M. PEGNES,
Justice of the Peace.

Answers of J. B. Lafitte, filed and marked T.

Ans. 1st. I was born in Natchitoches parish, in that partion now known as Desoto parish, and have lived therein since my birth; I am fifty-four years ald; my occupation is farming.

Ans. 2d. I knew Edward or Ned McLaughlin as early as the years 1817, 1818, and 1819; he was living in those years on Red river, in the then parish of Natchitoches, (as I learned from Edward McLaughlin himself.) I was never at his house, and did not know the particular locality of his settlement or improvement.

Ans. 3d. I think that his nearest neighbor in the years 1817, 1818. and 1819 was Land Norris, who lived above him on Red river; but I do not know how far it was from the settlement of Edward McLaughlin to that of Land Norris in the years mentioned.

Ans. 4th. I knew John McLaughlin, the son of Edward's. If John McLaughlin had any settlement on Red river below the
149 Pascagoula bayou in the years 1817, 1818, and 1819 I never knew it, and I never heard him say anything about having a settlement on Red river.

Ans. 5th. I do not know the locality of Edward McLaughlin's claim, but I believe the Indians claimed no lands below the Pascagoula bayou.

Ans. 6th. I do not know.

Ans. 7th. As to the first part of this interrogatory, I do not know. The cut-off mentioned in the report is now called Pascagoula bayou, and the island mentioned as Norris island is now known as Rush island.

Ans. 8th. I do not know.

Ans. 9th. I never knew Charles Mayers. I know Pierre Robleau, the father. I also know Pierre Robleau, the son; the general character of both is good.

Ans. 10th. I do not know.

Ans. 11th. I have no interest in the event of this suit. Pierre Robleau, the father, Joseph Sylvespasso, Jo Poissot, Phillip Flores, and Robin Casey, are dead. Chute Lafitte, Louis Lafitte, Lestan Rambin, Pedro Flores, and Simon Desoto are living. I do not know whether Henry Strider is dead or not.

(Signed) J. B. LAFITTE.

Sworn to and subscribed before me, on this the 12th day of March, 1858.

C. M. PEGNES, *Justice of the Peace.*

150 Answer of Pierre Robleau, filed and marked "U."

Answers of Pierre Robleau.

Ans. 1st. I was born in the parish of Natchitoches, in that portion of it now known as Desoto parish, and have lived since my birth therein. I am in my fifty-fifth year. I am a farmer.

Ans. 2d. I was very well acquainted with Edward McLaughlin, in the years 1817, 1818, and 1819; he lived on the Pascagoula bayou, below or on the south side; he had an improvement on the right bank of Red river, descending, just below the Pascagoula bayou; he also had an improvement at the junction of the Pascagoula and Prairie rivers, in the fork of the bayous, the Pascagoula above and the Prairie river below; Edward McLaughlin had a house and clearing on the right bank of Red river, descending, just below the Pascagoula bayou. I have known Edward McLaughlin all my life; I was frequently at his house; he had also a house and clearing between the Pascagoula bayou and Prairie rivers at their junction; he had but one house at that place and a little clearing.

Ans. 3d. Nobody lived near him in the years 1817, 1818, and 1819, in those years. Sam Norris was his nearest neighbor, ten or twelve miles above on the river.

Ans. 4th. I know John McLaughlin very well, the only im-
151 provement that was on Red river at the mouth of Pascagoula bayou was that of Edward McLaughlin. I never heard John McLaughlin say anything about having a Rio Hondo claim.

Ans. 5th. The lands on which Edward McLaughlin lived in the years 1817, 1818, and 1819, were not within the limits of the lands claimed by the Caddo Indians. The lands claimed by the Caddo Indians were above the Pascagoula bayou.

Ans. 6th. I do not know.

Ans. 7th. Said report having been made to witness by me, said justice, witness answers: I believe the land described in said report is the land on which Edward McLaughlin lived, on and prior to February 22d, 1819. The cut-off mentioned in the report is now called Pascagoula bayou, and Norris island mentioned in the report is now called Rush island.

Ans. 8th. The report having been made to witness by me, said justice, witness answers: John McLaughlin had no improvement at that place. Edward McLaughlin was the only settler on the lands described in the report at the time therein mentioned.

Ans. 9th. I think there was such a man in the country as Charles Mayers. My father's name was Pierre Robleau, is my own also.

152 Ans. 10th. I do not know him.

Ans. 11th. I have no interest in the event of this suit. Pierre Robleau, my father, Joseph Sylvespasso, J. O. Poissot, Phillip Flores, and Robin Casey, are dead. Chute Lafitte, Louis Lafitte, Lestan Rambin, Pedro Flores, and Simon Desoto, are living. I do not know whether Henry Strider is dead or not.

Ans. 12th. I never heard it until I was examined in the case of White *vs.* McMullen, and I did not make the affidavit therein mentioned, and if the affidavit purports to be mine, it is false. My father knew that Edward McLaughlin lived on the lands described in the report, and if the affidavit purports to be his, I believe it to be false.

Ans. 13th. If the affidavit purports to be mine, it is false; if it purports to be my father's, I believe it to be false.

Ans. 14th. I was examined in the case of White *vs.* McMullen, I think; my father's name was Pierre Robleau; I have the same Christian and surname that my father had; my father is now dead; there was no other person of the name of Pierre Robleau in the parish of Natchitoches excepting my father and myself between the years 1830 and 1840; there was no other family by the name of Robleau in the State of Louisiana excepting that of my father; my father
153 could not write his name, neither could I.

(Signed) PIERRE his + mark ROBLEAU.

Sworn to and subscribed before me, on this the 13th day of March, A. D. 1858.

C. M. PEGNES, *Justice of the Peace.*

Ans. of Lestan Ramblin, filed and marked "V."

Answers of Lestan Ramblin.

Ans. 1st. I was born in Natchitoches parish, in that portion of it now Desoto parish, and have always lived therein. I am fifty-six years old. I am a farmer.

Ans. 2d. I know Edward McLaughlin, having seen him frequently; I was never at his house, (but understood that he was living on Red river in the years 1817, 1818, and 1819, in the parish of Natchitoches, on the right bank of the river, descending,) and the improvements of Edward McLaughlin, as I saw and understood them, were at the junction of the Pascagoula bayou and Prairie rivers, between the two. I did not see the improvement on the right bank of Red river, descending, just below the Pascagoula bayou, for the reason that the land at that place had been cleared and in cultivation all along the bank of the river; there were really no improvements in the fork of Pascagoula bayou and Prairie river, only the signs of an improvement.

154 Ans. 3d. I never knew of any improvement near that of Edward McLaughlin in the years 1817, 1818, and 1819. I do not know how far it was to his nearest neighbors.

Ans. 4th. I knew John McLaughlin, have seen him frequently. If John McLaughlin had any settlement at that place I never knew it. I never heard him say anything about his claims on Red river.

Ans. 5th. The settlement that I understood to be Edward McLaughlin's was not within the limits of the lands claimed by *by* the Caddo Indians. The Caddo Indians claimed no lands below or south of the Pascagoula bayou.

Ans. 6th. I do not know.

Ans. 7th. I think that the settlement pointed out to me as that of Edward McLaughlin's would be embraced in the lands described in the report; taking the Red river bank as one of the boundaries, making Pascagoula bayou one of the boundaries, and Red river as another boundary, the reported improvement of Edward McLaughlin would be necessarily embraced. The cut-off mentioned in the report is now called Pascagoula bayou, and Norris island is now known as Rush island.

Ans. 8th. I never heard that John McLaughlin had any claim to the lands mentioned in the report, and I do not think that he ever had any.

155 Ans. 9th. I never knew Charles Mayers. I know Pierre Robleau, the father, and also know Pierre Robleau, the son; the character of both the father and son for truth and veracity is good.

Ans. 10th. I do not know.

Ans. 11th. I have no interest in the event of this suit. Pierre Robleau, the father, Joseph Sylvesposso, J. O. Poissot, Philip Flores, and Robin Casey are dead; Chute Lafitte, Louis Lafitte, Pedro Flores, and Simon Desoto are living. I do not know whether Henry Stryder is living or dead.

(Signed) LESTAN RAMBIN.

Sworn to and subscribed before me, on this the 13th day of March, 1859.

C. M. PEGNES,
Justice of the Peace.

Ans. of Simon De Soto, filed and marked W.

Answers of Simon De Soto.

Ans. 1st. I was born in the parish of Natchitoches, in that portion of it now Desoto parish, and have lived since my childhood therein; I am in my fifty-second year; I am a planter.

Ans. 2d. I know Edward McLaughlin, and have known him since I can recollect; I think that he lived in those years on the Pascagoula bayou, in the Red river bottom, in the parish of Natchitoches. He had a house and a little clearing in the fork of the Pascagoula bayou and Prairie river, and he raised corn and pumpkins at that
156 place; there were houses and a clearing on the right bank of Red river, descending, just below the Pascagoula bayou. I was frequently at the house of Edward McLaughlin.

Ans. 3d. I didn't know of any settlement near that of Edward McLaughlin in those years, except some Pascagoula Indians. I think that Sam Norris was his nearest neighbor, and perhaps some of the Parriers, but the distance I do not know, but it was several miles above him.

Ans. 4th. I knew John McLaughlin. If he had any settlement on the right bank of Red river, descending just below the Pascagoula bayou, I never knew it; I never heard him say anything on the subject.

Ans. 5th. I do not know whether the Caddo Indians had any claims to lands below the Pascagoula bayou or not. The settlement of Edward McLaughlin, as referred to, was below or south of the Pascagoula bayou, and if the lands of the Caddo Indians did not extend below that bayou, the improvement, of course, would not be included within the lands claimed by the Caddo Indians.

Ans. 6th. I do not know.

Ans. 7th. Witness having examined the application, says,
157 from the description of the land contained therein, thinks it is the same upon which Edward McLaughlin lived on and prior to the 22d of February, 1819, and thinks it is the same upon which he had lived in the years 1817, 1818, and 1819, which he had cultivated in these years, by growing corn. The cut-off mentioned in the report is now called Pascagoula bayou, and the Norris island mentioned is now known as Rush island.

Ans. 8th. If John McLaughlin ever had any settlement as described in report, I never knew it; I am satified in my own mind that he never had any settlement or improvements on the lands described in said report. I am well acquainted with the lands described in the report, and know that he had no improvement of his own on said land at the time mentioned in the report, and he lived with his father, Edward McLaughlin.

Ans. 9th. I knew Charles Mayers; he was a man of bad character, and was considered a bad man. I am also acquainted with Pierre Robleau; he was a man of very good character for truth and veracity.

Ans. 10th. I knew Leonard Dyson. If he ever owned or claimed any other land except that of Edward McLaughlin, I never knew it, on the Pascagoula bayou or Prairie river.

158 Ans. 11th. I have no interest in the event of this suit. Pierre Robleau, the father, Joseph Sylvesposso, Philip Flores, and Robin Casey are dead; Pedro Flores, Chute Lafitte, Louis Lafitte are living. I do not know whether Henry Strider and J. O. Poissot is dead or not.

(Signed) SIMON DE SOTO.

Sworn to and subscribed before me, on this the 13th day of March, 1858.

C. M. PEGNES,
Justice of the Peace.

Ans. of J. C. Lafitte, filed and marked X.

Answers of Joseph C. Lafitte.

Ans. 1st. I was born in the parish of Natchitoches, in that portion of it now Desoto parish, and have lived therein since my birth; I am about forty-nine years old; I am a farmer.

Ans. 2d. I know Edward McLaughlin, and have known him from my childhood. I was frequently at his house, and stayed at one time four months in sight of his house, on the opposite side of the bayou from him; to the best of my recollection in the years 1817, 1818, and 1819, Edward McLaughlin lived at the junction of the Pascagoula bayou and Prairie river, in the fork of the two. It is but a short distance from the junction of these bayous to Red river. He had a cabin in which he lived, and a little clearing of some four or

159 five acres, and he raised corn, peas, and pumpkins on the land that was cleared. There was an improvement on the right bank of Red river, descending, just below the Pascagoula bayou, on which some Pascagoula Indians lived.

Ans. 3d. There was no one living near Edward McLaughlin in those years. Sam Norris lived several miles above on the river.

Ans. 4th. I knew John McLaughlin. He had a settlement on the right bank of Red river, descending, below and contiguous to the Pascagoula bayou, in the years mentioned, to wit, 1817, 1818, and 1819. (He told me that Reuben White came to him to buy the land described in the report annexed to the interrogatories, or his, John McLaughlin's, Rio Hondo claim, and that he told White that the land did not belong to him, but belonged to his father, Edward McLaughlin; he said further, that he told White that he did not want to sell it, because it did not belong to him, but that White was after him to get the land, and he, John McLaughlin, being a poor man, concluded to sell it and get something, as he didn't risk anything, as White said

he was willing to buy the land at his own risk. John McLaughlin got a horse, saddle, and bridle for the land, and I do not know
160 what besides.)

Ans. 5th. I was well acquainted with the Caddo Indians, having traded with them, and the lands on which he lived and which he cultivated was not within the limits of the lands claimed by the Caddo Indians. The Caddo Indians claimed no lands below the Pascagoula bayou.

Ans. 6th. I do not know.

Ans. 7th. The report having been read to witness by me, said justice, witness answers: That the land described in the report of the register and receiver of the land office at Opelousas was the land occupied and cultivated by Edward McLaughlin, and prior to February 22d, 1819, and which he had occupied and cultivated in the years 1817 and 1818. Taking Red river as a boundary, and Pascagoula bayou as another boundary, the land described in said report would necessarily include the improvements of Edward McLaughlin, to which I have referred in my testimony, and also the improvements immediately on the bank of Red river, which at one time was occupied by the Pascagoula Indians. I know that he claimed the land described, because he tried to sell it to my uncle, Manuel Lafitte. The cut-off mentioned in said report is now known as Pascagoula bayou, and Norris island therein mentioned is now known as
161 Rush island.

Ans. 8th. The report having been read to witness by me, said justice, witness answers: I am very well acquainted with the land described in said report. I have been on it more than one hundred times; have known the land from my childhood; and know that John McLaughlin did not inhabit, occupy, and cultivate the same on and prior to the 22d day of February, 1819.

Ans. 9th. I knew Charles Mayers; his character was bad, and he was considered a very bad man. I knew Pierre Robleau, the father, and I also knew Pierre Robleau, the son; their general character for truth and veracity is very good.

Ans. 10th. I do not know Leonard Dyson.

Ans. 11th. I have no interest in the event of this suit. Pierre Robleau, the father, Joseph Sylvesposso, Jo. Poissot, Philip Flores, and Robin Casey are dead. Pedro Flores and Louis Lafitte are living. I do not know whether Henry Strider is dead or not.

his
(Signed) JOSEPH + C. LAFITTE.
mark.

Sworn to and subscribed before me, on this the 13th day of March, 1858.

(Signed) C. M. PEGNES,
Justice of the Peace.

162 Ans. of Louis Lafitte, filed and marked Y.

Answers of Louis Lafitte.

Ans. 1st. I was born in the parish of Natchitoches, and have lived since my birth in that portion of it now Desoto parish. I am about sixty-five years old. I am a farmer.

Ans. 2d. I knew Edward McLaughlin. I think in the years 1817, 1818, and 1819, he lived in Red river bottom, near the mouth of Pascagoula bayou; he lived at the junction of Pascagoula bayou and Prairie river, between the two, which is very near Red river. I was on the place frequently, and saw Edward McLaughlin living there. He had a log cabin and a small field, in which he raised corn; there was also some houses immediately on the bank of Red river, just below the Pascagoula bayou and on the right bank of Red river, descending.

Ans. 3d. There was no one living near Edward McLaughlin in those years. Sam Norris lived some distance above; I don't know how far.

Ans. 4th. I knew John McLaughlin; he had no settlement on the right bank of Red river, descending, below and contiguous to the Pascagoula bayou in the years mentioned, to wit, 1817, 1818, and 1819. He never said anything to me on the subject.

Ans. 5th. I do not know.

163 Ans. 6th. I do not know.

Ans. 7th. The report having been read to witness by me, said justice, witness answers: That the land described in said report is the land which Edward McLaughlin occupied and cultivated on and prior to the 22d day of February, 1819, and which he occupied and cultivated in the years 1817 and 1818; taking Red river as one boundary and Pascagoula river as another boundary, the land described in said report would necessarily include the improvements of Edward McLaughlin; the cut-off mentioned in said report is now called Pascagoula bayou, and the island therein mentioned as Norris island is now called Rush island.

Ans. 8th. The report being read to witness by me, said justice, witness answers: That John McLaughlin never lived on the lands described, to my knowledge, at any time; I was on the lands described in said report frequently during the years 1817, 1818, and 1819, and know that he did not occupy and cultivate them at any time.

Ans. 9th. I do not know Charles Mayers. I know Pierre Robleau, the father; I also know Pierre Robleau, the son; they are both men of truth.

Ans. 10th. I do not know him.

Ans. 11th. I have no interest in this suit. Pierre Robleau,
164 the father, Joseph Sylvesposso, J. O. Poissot, Philip Flores, and Robin Casey are dead. I do not know whether Henry Strider is dead or not.

(Signed) LOUIS LAFITTE.

Sworn to and subscribed before me, on this 18th day of March, 1858.

(Signed) C. M. PEGNES,
Justice of the Peace.

THE STATE OF LOUISIANA, *Parish of Desoto:*

I, C. M. Pegnes, one of the justice of the peace for the parish of Desoto, duly elected, sworn, and commissioned, and acting as such in and for the parish of Desoto, in the State of Louisiana, do hereby certify and make known that the foregoing deposition of Charles Rambin, Neville Rambin, Onofre Flores, J. B. Lafitte, alias Chute Lafitte, Pierre Robleau, Lestan Rambin, Simon Desoto, Joseph C. Lafitte, and Louis Lafitte, taken before me on the 10th, 11th, 12th, 13th, and 18th days of March, A. D. one thousand eight hundred and fifty-eight, at the time and place in the caption hereof mentioned; that the examinations, responses, and statements of each of said deponents were reduced to writing by me, and by the said deponents respectively sworn to and subscribed in my presence, at the time and place aforesaid, Charles Rambin, Neville Rambin, Pierre Robleau, and Joseph C. Lafitte not being able to write, have signed by making their ordinary mark.

In testimony whereof I, C. M. Pegnes, one of the justice
165 of the peace for the parish of Desoto aforesaid, do hereunto set my hand at Mansfield, Desoto parish, Louisiana, this the 24th day of March, A. D. one thousand eight hundred and fifty-eight.

(Signed) C. M. PEGNES,
Justice of the Peace.

Copy of act of sale from John McLaughlin to Reuben White.—Filed and marked (1.)

STATE OF LOUISIANA, *Parish of Caddo:*

Be it known that this day before me, Henry John Gray Battle, a notary public in and for the parish of Caddo, State of Louisiana, duly commissioned and sworn, came and appeared John McLaughlin, of the parish of Caddo, and of Louisiana, who declared that for the consideration of three thousand dollars cash, the receipt whereof is hereby acknowledged, he does by these presents grant, bargain, sell, convey, transfer, assign, and set over, with a full guaranty against all troubles, debts, mortgages, claims, evictions, donations, alienations, and other encumbrances whatsoever, unto Reuben White, of the parish of Bossier, of the State of Louisiana, present, accepting the following described property, to wit: Certain tracts or parcels of land situated in the parish of Caddo, and known, as well as can be described, as portions of fractional sections Nos. twenty-five, (25,) twenty-six, (26,) thirty-four, (34,) thirty-five, (35,) and thirty-
166 six, (36,) bounded on the north by Red river, on the east by Red river and public lands, on the south by township lines 15 and 16, and on the west by Pascagoula bayou, the said land containing seven hundred and eighty-one 27-100 acres, and is the same land which was confirmed to John McLaughlin by act of Congress of 1842, which may be more fully understood by reference to certificate No. 162, on file in the office of land register in Natchitoches, La., to have and to hold the said land unto the said purchaser, his heirs and assigns, forever; and the said vendor hereby further promises

that he and his heirs shall and will forever warrant and defend the title to the land herein conveyed against all legal claims and demands whatever. The said vendor moreover transfers unto said purchaser all the rights and actions of warranty to which he is entitled against all the former proprietors of the land herein conveyed, subrogating said purchaser to said rights and actions to be by him enjoyed and exercised in the same manner that they might have been by the present vendor.

Done and passed in my office in the parish of Caddo aforesaid, in the presence of Hosea Barker and Augustus D. Battle, witnesses, of lawful age, and domiciliated in this parish, who hereunto
167 sign their names with the parties, excepting McLaughlin, who makes his mark, not knowing how to write, and me, the said notary, on this twenty-second day of June, in the year one thousand eight hundred and forty-eight.

(Original signed.)

his
JOHN × McLAUGHLIN.
mark.
REUBEN WHITE.

Attest:

HOSEA BARKER.
A. D. BATTLE.
H. J. G. BATTLE,
Notary Public.

The foregoing is a true copy of the original and of record in my office.

Given under my hand and private seal, having no seal of office, at Shreveport, this June 23d, A. D. 1848.

H. J. G. BATTLE,
Notary Public.

STATE OF LOUISIANA, *Parish of Caddo:*

I hereby certify that the above and foregoing to be a true and correct copy of the original copy on file and of record in my office.

Indorsed: Filed and recorded, July 10th, 1848.

Given under my hand and seal of office, on this the 14th day of April, A. D. 1859.

(Signed) F. A. LEONARD,
Deputy Recorder.

Copy of act of sale from John McLaughlin to Reuben White.—Filed and marked 2.

STATE OF LOUISIANA, *Parish of Caddo:*

Be it known that this day, before me, James O. Lewis, recorder and notary public in and for the parish of Caddo, and State of Louisiana, duly commissioned and qualified, personally came and
168 appeared John McLaughlin, a resident of Caddo parish, State

of Louisiana, who declared that whereas on the the 22d day of June, A. D. 1848, by public act passed before Henry J. G. Battle, a notary public in and for the parish of Caddo, (which said act is recorded in my office, at page of book ,) he did, for and in consideration of the sum of three thousand dollars cash, which the said acknowledges then to have received, bargain, sell, and deliver unto Reuben White, a citizen of the parish of Bossier, a certain tract of land, on Red river, in Caddo parish, immediately below the Pascagoula bayou, which said land is described in said act as follows, to wit: Certain tracts or parcels of land situated in the parish of Caddo, and known, as well as can be described, as portions of fractional sections Nos. twenty-five, (25,) twenty-six, (26,) thirty-four, (34,) thirty-five, (35,) and thirty-six, (36,) bounded on the north by Red river, on the east by Red river and public , on the south by the township line 15 and 16, and on the west by the Pascagoula bayou; the said land contains seven hundred and eighty-one 27-100 acres, and is the same land which was confirmed to John McLaughlin, by act of Congress of 1842, which may be more fully understood by reference to the certificate No. 162, on file in the office of the
169 land register in Natchitoches, La.; and whereas in the said description of the land, meant and intended to be bargained, and sold by said act there exists errors and inaccuracies: Now, therefore, be it known that in consideration of the premises and of said sum of three thousand dollars cash, which the said McLaughlin acknowledges to have received from said White and for the further assurance of title to the said White of the land in said act meant and intended to be sold, conveyed, and delivered; and for the purpose of describing said land more fully and explicitly, and correcting any errors which may exist in the description in said act contained, he does by these presents grant, bargain, sell, convey, affirm, and deliver, with a full guaranty against all troubles, heirs, mortgages, suits, evictions, donations, alienations, and other encumbrances whatsoever, unto the said Reuben White, here present, accepting and purchasing for himself, his heirs, and assigns all that tract of land known as section thirty-four, (34,) township sixteen (16) north, of range twelve (12) west, containing six hundred and twenty-one acres and twenty-three hundredths of an acre (621 23-100,) situated on the right bank of Red river, descending, immediately between the Pascagoula bayou, and bounded north by Red river, east by Red river, and a
170 fraction of section thirty-six, (36,) now occupied by or in the use of Butler, south by Red river and the township line of township fifteen, (15) No. range twelve, (12,) and west by Pascagoula bayou and Red river, it being the same land recommended for confirmation to the said McLaughlin by the register and receiver of the land office at Opelousas, in their reports dated the 30th May and the 6th day of June, A. D. one thousand eight hundred and forty, as claim No. one hundred and sixty-two, (162,) which said claim was confirmed by an act of Congress, approved July 6th, A. D. 1842, entitled "An act confirming certain land claims in Louisiana," and has been located and approved by the surveyor general, with such bounds

and for such quantity as will appear by reference to the diagram annexed to this act, and special referred to said diagram by the said appearers, and by me, the said notary, paraphed "ne varietur;" and the said vendor, John McLaughlin, further declared that he had, and by these presents fully authorized and empower his vendee, the said Reuben White, to demand and receive of the Commissioner of the General Land Office, or other proper authority, a patent for the lands hereinbefore sold, either on his own name or in the name of the said vendor, as to him, the said vendee, may seem most convenient
171 and proper; this power to be held and deemed irrevocable.

The said vendor doth furthermore stipulate and bind himself that if any patent for the above described lands has heretofore issued, or shall hereafter be issued in his name, he will, at his own proper costs and charges, transfer and deliver the same to the same to the said Reuben White.

In faith whereof, the said vendor, declaring that he cannot write his name, has affixed his ordinary mark of a cross; and the said vendee hath signed his name hereto in presence of John M. Landrum and John M. Lewis, competent witnesses of lawful age, and domiciliated in said parish of Caddo, who likewise sign their names hereto, together with the said parties and me, the said notary, at my office in the town of Shreveport, and parish aforesaid, this thirteenth day of September, in the year of our Lord one thousand eight hundred and forty-eight.

The word "acres" on second page interlined before signing, and the words "of thee" on the third page erased.

(Signed) JOHN his + mark. McLAUGHLIN.
REUBEN WHITE.

Attest: JOHN M. LANDRUM.
JOHN M. LEWIS.
J. O. LEWIS,
Recorder and ex officio Notary Public.

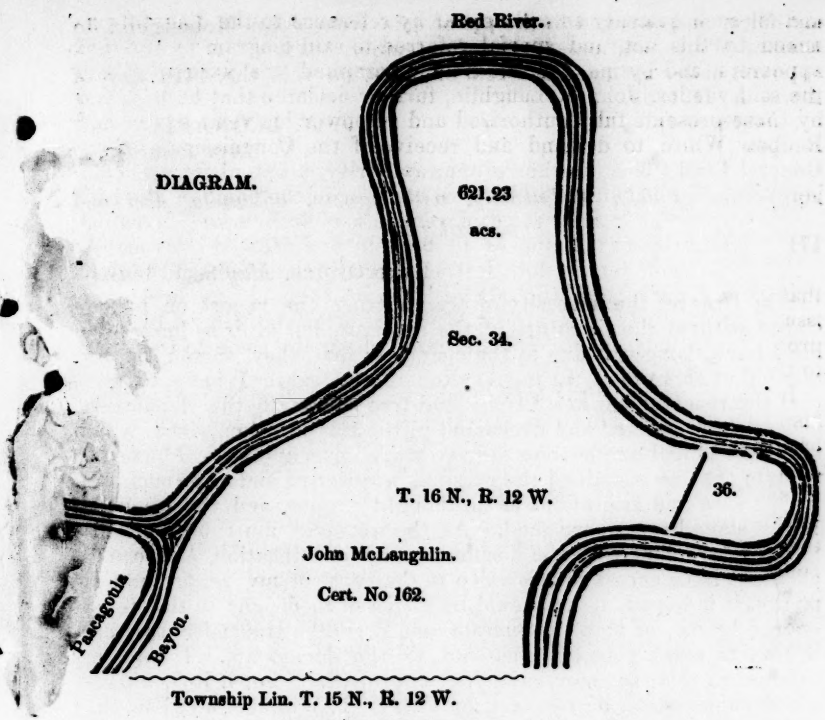
RECORDER'S OFFICE, *Parish of Caddo.*

I hereby certify the above and foregoing to be a true and
172 correct copy of the original act on file and of record in my office.

Indorsed: Filed and recorded Sept. 13th, 1848.

Given under my hand and seal of office, on this the 14th day of April, A. D. 1859.

(Signed) F. A. LEONARD,
Dep. Recorder.



Northwestern district, La.

SURVEYOR GENERAL'S OFFICE,
Donaldsonville, La., July 5th, 1843.

Diagram showing the location of the claims of John McLaughlin agreeably to surveys of lines of public lands on file in this office.

(Signed) F. D. NEWCOMB,
Sur. Gen., La.

Received and filed, on the 24th August, 1843, at the land office at Natchitoches.

A correct copy from my office.

JOHN F. PAYNE, *Register*.

Indorsed: John Laughlin, his + mark, Reuben White; Attest: John M. Landrum, Jno. M. Lewis. Ne varietur, this 13th day
173 of Sept. 1843, J. O. Lewis, recorder and notary.

STATE OF LOUISIANA, *Parish of Caddo.*

I hereby certify the within and foregoing to be a true and correct copy of the original diagram, certificates of on file and of record in

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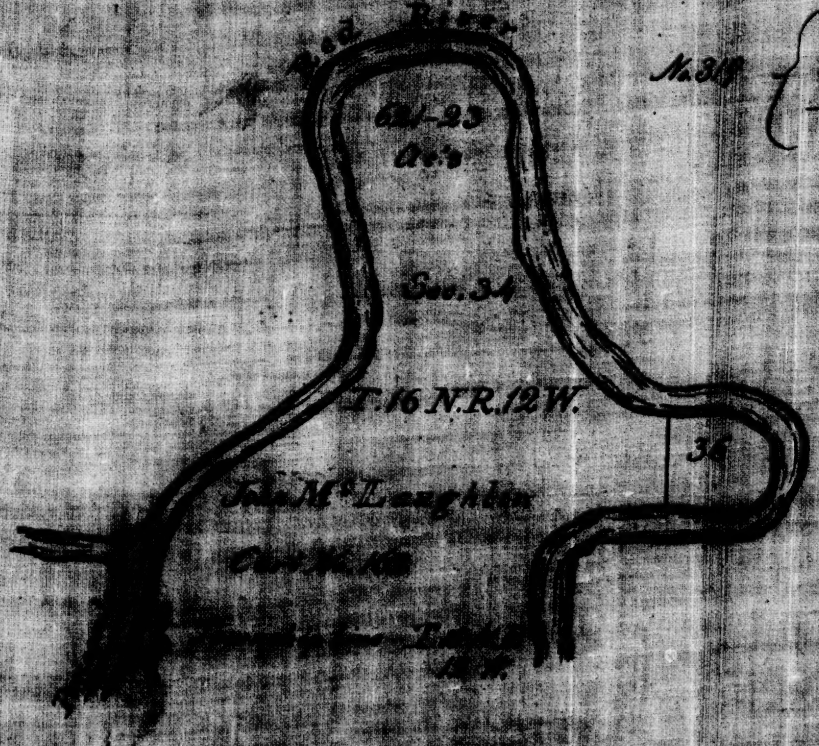

my office, and annexed to the act of sale from John McLaughlin to Reuben White, and passed 13th September, 1848.

Given under my hand and seal of office, on this the 14th day of April, A. D. 1859.

(Signed) F. A. LEONARD,
Dep. Recorder.

Application of John McLaughlin, with accomp. affidavits, filed and marked "4."

LAND OFFICE, *May 30th*, 1840.

SIR: I regret the necessity of transmitting the report on private claims without the signature of the receiver, but after so long a delay I have thought it due to the claimants that they should be forwarded at this time. In justification of the cause I have to state that the receiver has at all times had free access to the documents, and actually assisted and concurred in the classification, since which time he has had ample time to have made up an opinion. I have also to state that he examined the original manuscript and made such erasure and alterations as he thought proper, and the same has
174 since been transcribed. As the receiver must be perfectly conversant with the documents and classification, and can at all times have access in this office to the copy of my report and remarks, it is hoped, if he should be disposed to concur in the report offered by me, or make a separate one, it can be transmitted by mail in time to reach your office as soon as the documents. I hope my conduct in this case may have your approbation; but if it should not, the documents can be returned by Col. H. T. Williams, to whom they have been entrusted for transmission by request of the claimants. I have the more readily acquiesced in this report on account of the weight of the documents, greater safety and probable expedition.

I am, very respectfully, your ob't serv't,

R. N. KELLEY, *Register.*
E. A. LETON, *Clerk of the Board.*

RECEIVER'S OFFICE AT OPELOUSAS, LA., *June 6th*, 1840.

SIR: I herewith transmit you the report made by on the claims for land, filed in the land office at this place, for the joint decision of both register and receiver. This report I have forwarded on believing it to be my duty to do so, that there may be some final had in these claims during the present session of Congress, although
175 it is irregular and not such a report as was contemplated by the act of Congress, but circumstances has put it out of my power to make a joint report with the register as contemplated by said act, and it has been with great difficulty that I could obtain the papers for the purpose of making a report at this late term of the session of Congress, owing to the situation in which the register is in from the intemperate use of ardent spirits; he has closed the office and will not let any one have access to the papers or permit any one to do business in the office. If a joint report is absolutely necessary,

and the papers are returned, I will do all that is in my power to make such a report, but I am fearful that it will be utterly impossible to do so as long the register pursues the course he has done since he come into office. It will be perceived that we have differed in opinion in several cases, I think would not have been the case if the register had not been in such a situation that it was utterly impossible to do any kind of business with him. It will be seen that there has been testimony filed in several of those claims during the time we were making out the report, which testimony was taken only a short time previous thereto and without the knowledge or consent of either the register or receiver. The testimony filed at such a late date
176 and under such circumstances I deem it to be my duty not to take it into consideration, but to form an opinion in the case on such evidence as had been previously filed. The claims No. 89, Antonio Bernardo, it will be perceived is the only claim in the 8th class. By mere inspection of the face of the claim it will satisfy any person that the claim is a forgery.

Very respectfully, your ob't serv't,

BENJ. R. GAULT, *Receiver.*

Hon. JAMES WHITCOMB,
Commissioner of the General Land Office.

162. John McLoughlin, of the parish of Natchitoches, claims 640 acres of land, situated in the neutral territory, between the Rio Hondo and Sabine rivers, and lying on the right bank of Red river, descending, below and contiguous to Pascagoula bayou, and about sixty miles by land from the town of Natchitoches, founded on habitation and cultivation by the claimant, on and prior to the 22d day of February, 1819. The claimant alleges, under oath, that he settled, occupied, and cultivated the tract claimed on, and previous to the 22d day of February, 1819. The evidence of Pierre Robleau taken the 14th Jany., 1834, states that he has been a long time well acquainted with said John McLaughlin, and that he did, of affiant's own knowledge, inhabit and cultivate a tract of land situate and lying on the west bank of Red river, below and contiguous to Pasca-
177 goula bayou on and prior to the 22d Feby., 1819; that the improvements were valuable and of a permanent character. Charles Mayers also sworn in this claim, on the 6th February, 1834, states that the facts and allegations contained in the claimant's notice are true, and that he has known the claimant for more than eighteen years.

* * * * * *
* * * * * *

Abstract and alphabetical list of Spanish and Rio Hondo claims reported by the register and receiver at Opelousas, State of Louisiana, May 15th, 1840.

No. of claim.	Page.	By whom claimed.	Quantity and location of claim.	Class.
162.....	116	McLaughlin, John..	640 acres, late neutral territory, right bank Red river, descending below and contiguous to Pascagoula bay, 60 miles from Natchitoches.	2 R.

Southwestern land district, State of Louisiana.

OPELOUSAS, *November 1st*, 1824.

To the honorable William H. Crawford, Secretary of the Treaury of the United States.

The register and receiver of southwestern land district, in obedience to the act of Congress, entitled "An act providing for the execution of the titles to lands in that part of the State of Louisiana situated between the Rio Hondo and the Sabine river," approved March 3d, 1823, and to the act supplementary thereto, ap-
178 proved May 20th, 1821, respectfully report:

* * * * * *

14. Leonard Dyson, of the parish of Natchitoches, assignee of Edward McLaughlin, filed his notice claiming, by virtue of habitation, occupation, and cultivation, a tract of land lying within the late neutral territory, situated on the waters of Red river, on the east side of a cut-off which forms Norris island, bounded on all sides by vacant land, and containing 640 acres. The claim is supported by the following testimony taken before the board:

Samuel Norris and Peter Murphey, being duly sworn, severally says that they know the land claimed by Leonard Dyson, as assignee *as assignee* of Edward McLoughlin and described in his above notice; that the same is lying and situated as is therein described; that said tract of land was occupied, inhabited, and cultivated by the claimant, and those under whom he holds, by their living and growing corn thereon, in and previous to the 22d February, 1819; that said occupation, habitation, and cultivation has been continued by the claimant and those under whom he holds since that period to the present time, and that the claimant's
179 improvements on the tract claimed at this time includes about five acres.

On this testimony we are of opinion the claim ought to be confirmed, and have consequently, in the abstract, classed it with the third class of claims.

* * * * * *

All of which is respectfully submitted by your most ob't serv't,
VALENTINE KING, *Register.*
DADID L. TODD, *Receiver.*

* * * * * * * *

Abstract containing the whole number of claims embraced in the foregoing report.

* * * * * * * *

THIRD CLASS.

No.	Name of claimant.	Situation of the claim.	Quantity.	
			Acres.	*Hnns.*
14	Leonard Dyson, ass'ee of Edw'd McLaughlin.	Red river.....	640	00

* * * * * * * *

180 DAVID L. TODD, *Receiver.*

GENERAL LAND OFFICE,
March 9th, 1858.

I, Thomas A. Hendricks, Commissioner of the General Land Office, do hereby certify that the annexed, on pages 1 to 3 inclusive, are true and literal exemplifications from the originals on file in this office, and at pages 4, 5, 6, are true and literal extracts from the originals also on file.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

(Signed) THOMAS A. HENDRICKS,
Commissioner of the General Land Office.

Patent of John McLaughlin.—Filed in evidence and marked 5.

The United States of America, to all to whom these presents shall come, greeting:

Whereas the claim of John McLaughlin, in his own right, entered as number one hundred and sixty-two in the reports dated this thirteenth day of May and sixth day of June, one thousand eight hundred and forty, of the register and receiver at Opelousas, Louisiana, has been confirmed by the seventh section of the act of Congress,
181 appoved the sixth day of July, one thousand eight hundred and forty-two, entitled "An act confirming certain land claims in Louisiana," which claim has been surveyed and designated as section thirty-four, containing six hundred and twenty-one acres and twenty-three-hundredths of an acre, in township sixteen north, of

range twelve west, in the northwestern land district, in the State of Louisiana.

Now know ye, that the United States of America, in the consideration of the premises, and in conformity with said act of Congress, have remised, relinquished, and forever quitclaimed, and by these presents do remise, relinquish, and forever quitclaim unto the said John McLaughlin, in his own right, and to his heirs, the tract or section of land above described, to have and to hold the said tract of land above described, with the appurtenances, unto the said John McLaughlin, in his own right, and to his heirs and assigns forever, but in no manner to effect the rights of third persons, nor to preclude against judicial decision between private claimants for the same land.

In testimony whereof I, John Tyler, President of the United
182 States, have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed.

Given under my hand at the city of Washington, the twentieth day of September, in the year of our Lord one thousand eight hundred and forty-four, and of the independence of the United States the sixty-ninth.

By the President: JOHN TYLER,
J. WILLIAMSON,
Recorder of the General Land Office.

Recorded vol. 6, page 179, ed.

Correspondence of officers.—Filed in evidence and marked 6.

LAND OFFICE, OPELOUSAS, LA.,
February 4th, 1851.

SIR: Application having been made to this office to locate the claim of Leonard Dyson, assignee of Edward McLaughlin, No. 14, of the reports of the register and receiver of the southwestern district, dated 1st November, 1824, and the 1st section of the act of Congress, entitled "An act to confirm claims" to lands in the district between the Rio Hondo and Sabine rivers, founded on habitation and cultivation, approved the 24th of May, 1828, having suspended the
183 confirmation of several of the claims reported upon as above, among which the present claim of Leonard Dyson is embraced, "which claim says the act are suspended until it is ascertained whether they are situated within the limits of the lands claimed by the Caddo Indians." The object of this letter is therefore to be informed by you, whether, if satisfactory testimony is filed to show that the claim of Leonard Dyson, No. 14, is not within the limits of the lands claimed by the Caddo Indians, this office can consider this claim as confirmed, and act upon it without further legislation by Congress. This question is of great interest to the parties claiming the land, who, it seems, have spared neither time or money to perfect their claim, but as yet without success. They have exhibited to us ample proof to show that the claim is not within the limits of said Indian

lands. Besides this testimony the report described the cla
Leonard Dyson, No. 14, as being situated on the waters of the
river, in the S. east side of a cut-off forming Norris isl
184 this cut-off is now called Bayou Pascagoula. By reference be-
tween the treaty of the United States and the Caddo Indians,
(W. L. States at large, Ind. trea., vol. 7, page 470, Edit. of Chas. C.
Little and James Brown,) you will perceive that this Pascagoula bayou
is described as a part of the southern limits of the lands claimed by
the said Caddo Indians. In view of the facts above set forth and the
great trouble and expense to which the parties have been to perfect
their claim, we cannot but earnestly and respectfully recommend this
subject to your earliest attention.

We are, sir, respectfully, your ob't serv't,

EV'TE DE BAILLON, *Register*.
R. BENGARIE, *Receiver*.

To the Hon'ble JUSTICE BUTTERFIELD, *Commissioner*.

GENERAL LAND OFFICE,
May 2d, 1861.

GENTLEMEN: Referring to the claim entered as No. 14, in the name of Leonard Dyson, as assignee of Edward McLaughlin, in the report dated 1st November, 1824, which is the subject of your letter of the 14th Feb. last, I herewith enclosed for your information a copy of
my letter of this date to E. Bannon, esqr., at New Orleans,
185 Louisiana. From the enclosed you will see that the case is
expressly excepted from the confirmatory provisions of the act of 24th May, 1828, and is one in which we can take no jurisdiction, and can extend no relief. This, in effect, is the view taken in the letter of April 7th, 1843, from this office to Isaac Wright, esqr., a copy of which was sent under that date to the register and receiver at Opelousas, and which, it is presumed, will be found on your files, and to which I will refer you.

Very respectfully, your ob't serv't,

J. BUTTERFIELD, *Commissioner*.

REGISTER AND RECEIVER, *Opelousas, Louisiana*.

GENERAL LAND OFFICE, *March 18th*, 1852.

GENTLEMEN: I have received your communications of the 28th ult. and 15th inst., in behalf of Isaac Wright, of Louisiana, relative to the claim of Leonard Dyson, which is entered as No. 14, in the report dated 1st November, 1824, of the register and receiver at Opelousas, Louisiana, (D. Green, American State Papers, public lands, volume 4, page 37 and 75,) but which claim is excepted from the confirmatory provisions of the act of Congress of the 24th May, 1828,
186 (U. S. Statutes at Large, vol. 6, page 382, chap. 92,) and by
said act is suspended with others until it is ascertained whether they are situated within the limits of the lands claimed by the Caddo Indians. In your letter of the 28th ult., it is stated:

1st. That the evidence sustaining this claim, together with the claim of title in the last assignee, Elijah Cannon, is said to be on file

range twelve west, in the northwestern land district, in the State of Louisiana.

Now know ye, that the United States of America, in the consideration of the premises, and in conformity with said act of Congress, have remised, relinquished, and forever quitclaimed, and by these presents do remise, relinquish, and forever quitclaim unto the said John McLaughlin, in his own right, and to his heirs, the tract or section of land above described, to have and to hold the said tract of land above described, with the appurtenances, unto the said John McLaughlin, in his own right, and to his heirs and assigns forever, but in no manner to effect the rights of third persons, nor to preclude against judicial decision between private claimants for the same land.

In testimony whereof I, John Tyler, President of the United
182 States, have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed.

Given under my hand at the city of Washington, the twentieth day of September, in the year of our Lord one thousand eight hundred and forty-four, and of the independence of the United States the sixty-ninth.

By the President: JOHN TYLER,
J. WILLIAMSON,
Recorder of the General Land Office.

Recorded vol. 6, page 179, ed.

Correspondence of officers.—Filed in evidence and marked 6.

LAND OFFICE, OPELOUSAS, LA.,
February 4th, 1851.

SIR: Application having been made to this office to locate the claim of Leonard Dyson, assignee of Edward McLaughlin, No. 14, of the reports of the register and receiver of the southwestern district, dated 1st November, 1824, and the 1st section of the act of Congress, entitled "An act to confirm claims" to lands in the district between the Rio Hondo and Sabine rivers, founded on habitation and cultivation, approved the 24th of May, 1828, having suspended the
183 confirmation of several of the claims reported upon as above, among which the present claim of Leonard Dyson is embraced, "which claim says the act are suspended until it is ascertained whether they are situated within the limits of the lands claimed by the Caddo Indians." The object of this letter is therefore to be informed by you, whether, if satisfactory testimony is filed to show that the claim of Leonard Dyson, No. 14, is not within the limits of the lands claimed by the Caddo Indians, this office can consider this claim as confirmed, and act upon it without further legislation by Congress. This question is of great interest to the parties claiming the land, who, it seems, have spared neither time or money to perfect their claim, but as yet without success. They have exhibited to us ample proof to show that the claim is not within the limits of said Indian

lands. Besides this testimony the report described the claim of Leonard Dyson, No. 14, as being situated on the waters of the Red river, in the S. east side of a cut-off forming Norris island;
184 this cut-off is now called Bayou Pascagoula. By reference between the treaty of the United States and the Caddo Indians, (W. L. States at large, Ind. trea., vol. 7, page 470, Edit. of Chas. C. Little and James Brown,) you will perceive that this Pascagoula bayou is described as a part of the southern limits of the lands claimed by the said Caddo Indians. In view of the facts above set forth and the great trouble and expense to which the parties have been to perfect their claim, we cannot but earnestly and respectfully recommend this subject to your earliest attention.

We are, sir, respectfully, your ob't serv't,

EV'TE DE BAILLON, *Register*.
R. BENGARIE, *Receiver*.

To the Hon'ble JUSTICE BUTTERFIELD, *Commissioner*.

GENERAL LAND OFFICE,
May 2*d*, 1861.

GENTLEMEN: Referring to the claim entered as No. 14, in the name of Leonard Dyson, as assignee of Edward McLaughlin, in the report dated 1st November, 1824, which is the subject of your letter of the 14th Feb. last, I herewith enclosed for your information a copy of my letter of this date to E. Bannon, esqr., at New Orleans,
185 Louisiana. From the enclosed you will see that the case is expressly excepted from the confirmatory provisions of the act of 24th May, 1828, and is one in which we can take no jurisdiction, and can extend no relief. This, in effect, is the view taken in the letter of April 7th, 1843, from this office to Isaac Wright, esqr., a copy of which was sent under that date to the register and receiver at Opelousas, and which, it is presumed, will be found on your files, and to which I will refer you.

Very respectfully, your ob't serv't,

J. BUTTERFIELD, *Commissioner*.

REGISTER AND RECEIVER, *Opelousas, Louisiana*.

GENERAL LAND OFFICE, *March* 18*th*, 1852.

GENTLEMEN: I have received your communications of the 28th ult. and 15th inst., in behalf of Isaac Wright, of Louisiana, relative to the claim of Leonard Dyson, which is entered as No. 14, in the report dated 1st November, 1824, of the register and receiver at Opelousas, Louisiana, (D. Green, American State Papers, public lands, volume 4, page 37 and 75,) but which claim is excepted from the confirmatory provisions of the act of Congress of the 24th May, 1828,
186 (U. S. Statutes at Large, vol. 6, page 382, chap. 92,) and by said act is suspended with others until it is ascertained whether they are situated within the limits of the lands claimed by the Caddo Indians. In your letter of the 28th ult., it is stated:

1st. That the evidence sustaining this claim, together with the claim of title in the last assignee, Elijah Cannon, is said to be on file

in this office. In answer I have to state that I find no chain of title from Dyson to said Cannon on our files, and that evidence on which the said report of 1st November, 1824, was founded was not sent to this office; and all the information we have in this case, No. 14, from the officers who made that report, is presented on the face of the report itself, as found on page 37 of the aforesaid 4th volume of State Papers.

2d. You state that it is also alleged that in 1842, or '4, a fraudulent claim was gotten up, and that a patent has issued to John McLaughlin, the son of Edward McLaughlin, under which a suit has been commenced and is now pending in the State court, for possession of the land; that evidence has been filed in this office showing the
187 fraudulent character of the claim upon which the patent is said to have been issued, and that such evidence of fraud is embraced in the depositions of said John McLaughlin, Peter Murphy, and Samuel Norris, taken by John McLaughlin, &c., and you ask "if the testimony now in this office is found to sustain the charge that an imposition has been consummated in obtaining the patent in the name of John McLaughlin, and that Elijah Cannon is the person legally entitled to the land," that "immediate steps may to taken to recall and annul that patent, and that another may be issued in the name of said Cannon." In answer to state that in the reports of 30th May and 6th June, 1840, from Opelousas, Louisiana, the claim of John McLaughlin is entered as No. 162, the record of which is printed in Doc. No. 33, House of Representatives, Treas. Dept., 2d session, 27th Congress, page 69 and 70, and that the said claim, No. 162, is confirmed, as you will see by the 7th section of the act of Congress of the 6th July, 1842; (U. S. Statutes at Large, vol.
188 5, page 49, chapt. 50;) and that pursuant to the said act of 1842, and in obedience to its requirements (see 9th section) a patent was issued on the 20th September, 1844, to the said John McLaughlin, with this stipulation, that in no manner to affect the rights of third persons nor preclude a judicial decision between private claimants for the same land. In February, 1851, more than six years after the said patent was issued, copies (with other papers) of the depositions of the parties mentioned by you, viz: John McLaughlin, Peter Murphy, and Samuel Norris, were filed in this office in recalling the patent for a claim expressly confirmed by law, and in which the act required the patent to issue; nor is there any evidence before us, even if the patent had not issued, that would authorize us in treating the claim of Dyson, No. 14, as confirmed, or Mr. Cannon as the party lawfully entitled.

The case, then, is one even which the Executive department of the government can now exercise no control whatever, it being
189 a judicial one properly determinable only by the courts of the country, before which it seems, from your letter of the 28th ult., that the matter is now pending.

Very respectfully your ob't servant,

J. BUTTERFIELD,
Commissioner.

Messrs. BRYANT & EDWARDS, present.

GENERAL LAND OFFICE, *March 9th*, 1858.

I, Thomas A. Hendricks, Commissioner of the General Land Office, do hereby certify that the annexed, on pages 1, 2, and 3, is a true and literal exemplification from the original on file in this office, and on pages 4, 5, 6, 7, and 8, are true copies from the records of this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

THOS. A. HENDRICKS,
Commissioner of the General Land Office.

Certificate of claim, No. 162, of John McLaughlin, filed in evidence and marked 7.

Defendant's evidence.

190 Certificate of report and confirmation, No. 162. B, 2d class.

John McLaughlin, of the parish of Natchitoches, claims six hundred and forty acres of land situate in the late neutral territory, between the Rio Hondo and Sabine rivers, and situate on the right bank of Red river, descending, below and contiguous to Pascagoula bayou, and about sixty miles by land from the town of Natchitoches, founded on habitation and cultivation by the claimant, on and prior to the 22d day of Feb'y, 1819. The claimant alleges, under oath, that he settled, occupied, and cultivated the tract claimed on and previous to the 22d day of February, 1819. The evidence of Pierre Robleau, taken the 14th January, 1834, states that he has been a long time acquainted with the said John McLaughlin, and that he did, of affiant's own knowledge, inhabit and cultivate a tract of land situate and lying on the west bank of Red river below and contiguous to Pascagoula bayou on and prior to the 22d day of February, 1819; that the improvements were valuable and of a permanent character.

191 Charles Mayers, being also sworn in this claim on the 6th February, 1834, states the facts and allegations contained in the notice of the claimant are true, and that he has known the claimant for more than eighteen years.

LAND OFFICE AT OPELOUSAS, LOUISIANA.
Oct'r 1st, 1842.

I do hereby certify the above to be a correct copy of the report, No. 162, reported by the register and receiver of this office to the Honorable Lewis Woodbury, Secretary of the Treasury of the United States, on the 30th May and 6th June, and that the same has been confirmed by an act of Congress, approved 6th day July, 1842.

In virtue of which I hereunto set my hand and seal of office the day, month, and year above written.

[L. S.] P. HEBRARD, *Regist.*

Report in favor of John McLaughlin, offered by plaintiff, and filed as "4" on behalf of defendant, filed and marked "8." See pages 94 and 95 in transcript.

Order of survey.—Filed and marked 9.

SURVEYOR GENERAL'S OFFICE,
Donaldsonville, La., Oct. 12th, 1842.

Hessekiah Baggerly, U. S. deputy surveyor, Avoyelles, La.:

192 SIR: You are hereby authorized and required to measure, make survey, and locate the claim of John McLaughlin, No. 162, of the register and receiver's reports, dated at Opelousas, May 30th and June 6th, 1840, and confirmed by act of Congress, approved on the 6th July, 1842, agreeable to the calls of said reports on the south bank of Red river, below Pascagoula bayou, embracing such portions of sections 34, 35, 26, 28, and 36 of T. 16 N., R. 12 W., as will give the required area of 640 acres, and return a plat and field-notes in duplicate for examination and approval to this office.

(Signed) F. D. NEWCOMB,
Sur. Gen'l, La.

SURVEYOR GENERAL'S OFFICE,
Donaldsonville, La., Feb. 18th, 1854.

The above is a true copy of the original order of surveyof record in this office.

(Signed) WM. J. McCULLOH,
Sur. Gen., La.

Patent to John McLaughlin filed in evidence and marked 11.—(See page 96 in transcript.)

Order to deliver patent.—Filed and marked 12.

GENERAL LAND OFFICE, *November 30th*, 1844.

193 SIR: I have to inform you that I caused patents to be issued on plats of surveys approved by you for the claims referred to in the subjoined list, which are confirmed by the act of Congress, approved 6th July, 1842, and have transmitted the patents for delivery to the respective land offices within the limits of which the claims are situated, with the exception of the second one, which has been sent to the register at New Orleans.

Very respectfully, your ob't serv't,

(Signed) THO. H. BLAKE,
Commissioner.

F. D. NEWCOMB,
S. Gen., Baton Rouge, La.

List.

Patent in favor of John McLaughlin for sec. 34, 16 N., R. 12 W. N. W. district, No. 162, Opelousas rept., 30th May and 6th June, 1840.

Patent in favor of Walter B. Wethersly, for sec. 8, 11 W., R. 9 W., N. W. dist., No. 161, Opelousas reports, 30th May and 6th June, 1840.

Patent in favor of Abraham Rinkley, for sect. 1, 6 N., R. 8 W., N. W. dist., No. 157, Opelousas reports, 30th May and June 6th, 1840.

Patent in favor of Pierre Lafitte, for sect. 37, 13 N., R. 12 W., N. W. dist., No. 46, Opelousas reports, 30th May and June, 1840.

194 Patent in favor of William L. Cockerville, for sec. 23, 11 N., R. 9 W., N. W. district, No. 147, Opelousas reports, 30 May and 6th June, 1840.

Patent in favor of Charles Francois Benoist, for sec. 64, 7 N., R. 5 W., N. W. dist., No. 18, in Ouachita report, 24th July, 1837.

Patent in favor of Lestan Praudhomme, for sec. 75, 8 N., R. 6 W., N. W. dist., No. 2, in Ouachita report, 24th July, 1837.

Patent in favor of Charles Francois Benoist, for sec. 65, 7 N., R. 5 W., N. W. dist., No. 16, in Ouachita reports, 24th July, 1837.

Patent in favor of Joseph Debaune, for sec. 66, 7 N., R. 5 W., N. W. dist., No. 35, in Ouachita report, 24th July, 1837.

Patent in favor of Francois Roubien, for sec. 40. 8 N., R. 5 W., and sec. 74, 8 N., R. 6 W., N. W. dist., No. 11, in Ouachita report of 24th July, 1837.

Patent in favor of Louis Julien Rachal, for sec. 62, 7 N., R. 5 W., N. W. dist., No. 17, in Ouachita report, 24th July, 1837.

Patent in favor of Louis Tanzen, for sec. 37, 10 N., R. 7 W., N. W. dist., No. 23, in Ouachita report, 24th July, 1837.

195 Patent in favor of Pierre Compere, for sec. 63, 7 N., R. 5 W., N. W. dist, No. 13, in Ouachita report of 24th July, 1837.

Patent in favor of Julien Rashal, for sec. 67, 7 N., R. 5 W., and sec. 76, 7 N., R. 6 W., N. W. dist., No. 12, in Ouachita report of July 24th, 1837.

Patent in favor of Victor Landry, Lise Landry, and Marguerite Melancon, for sec. 72, 10 S., R. 14 E., S. E. dist., No. 35, in New Orleans report, 22d November, 1837.

Patent in favor of widow Louis Anart, for lot No. 1 of sec. 19, 13 S., R. 11 E., S. E. dist., No. 34, in New Orleans report, 22d November, 1837.

(Signed) T. H. B.

GENERAL LAND OFFICE, *November 30th*, 1844.

SURVEYOR GENERAL'S OFFICE,
Donaldsonville, La., Dec'r 12th, 1849.

A true copy of the original on file in this office.

R. W. BOYD, *Surveyor General, La.*

Certified copy of act of sale passed before H. J. G. Battle from John McLaughlin, of date 22d June, '48, filed and marked (13.) (See page 88 in transcript.)

Certified copy of confirmation act from same party, before Lewis, notary public, 13th Sept., 1848, filed and marked (14.) (See page 89 in transcript.)

196 *Judge's certificate to note of evidence*

STATE OF LOUISIANA, *Parish of Caddo:*

I, David Creswell, judge of the 18th judicial district court of said parish and State, certify that the foregoing pages, from 312 to 316, inclusive, contain the minutes of evidence in the causes therein mentioned, taken down by myself at the request of the parties, at the March term of the district court, 1859, to serve as a statement of facts in case of appeal.

In testimony whereof I have hereunto signed my name in open court, this 30th April, 1859.

(Signed) D. CRESWELL,
Judge 18th Dist.

From minutes.

E. CANNON
vs.
R. WHITE.

Now comes the parties, by their attorneys, whereupon the trial of this cause was resumed, and by consent of parties, two of the jurors sworn to try the issue joined in this case being unable from sickness to remain on the jury, the parties agreed to try the case by ten jurors.

And then afterwards, to wit, April 16th, 1859, the following order was entered:

E. CANNON
vs.
R. WHITE. } No. 5,186.

Now comes the parties, by their att'ys, whereupon came the
197 jury aforesaid, and the trial of this cause was resumed. R. Q. Adams, one of the jurors sworn by consent of parties, was excused from further service.

And then afterwards, to wit, April 19th, 1859, the following order was entered:

E. CANNON
vs.
R. WHITE.

Now comes the parties, by their attorneys, whereupon came the jury aforesaid, to wit: John Close, L. Currie, Rob't Cain, W. R.

Johnson, W. H. Dickerson, O. W. Beal, B. T. Scogin, J. H. Reynolds, and John Mereto, nine good and lawful men of the parish of Caddo, sworn and charged to try the issue joined between the parties, after hearing the evidence and argument of counsel and charge of the court, returned here into open court, and upon their oath do say: We, the jury, find a verdict for the defendant.

Whereupon it is ordered by the court that there be judgment in favor of defendant, in pursuance of the verdict of the jury.

APRIL 18TH, 1859.

Pl'ff filed ten bills of exception, which were ordered to be filed and marked from A to J inclusive; and defendant, on same day, filed seven bills of exception, which were ordered by the court to be filed and marked from 1 to 7 inclusive.

198 *Plaintiff's bill of exception, marked A.*

18th district court for the parish of Caddo, State of Louisiana.

ELIJAH CANNON
vs. } No. 5,186.
REUBEN WHITE.

Be it remembered, that on the trial of this cause plaintiff, by counsel, offered in evidence the deposition of Henry Strider, dead, or absent from the jurisdiction of this court, taken under a commission issuing from the 18th district court for the parish of Caddo, on the 3d day of September, 1849, before J. E. Cunningham, a justice of the peace for the parish of De Soto, in the suit of Reuben White *vs.* Cullen McMullen, and known on the docket of said 18th district court for the parish of Caddo by number 1,640, for the purpose of proving possession by the vendors of plaintiff, that John McLaughlin never had any possession of the land in controversy, and to prove fraud on the part of John McLaughlin and said Reuben White, and that the cut-off mentioned in report of commissioner on claim of Edward Dyson is the Pascagoula bayou, and that Norris island is Rush island, and that the land in controversy was never within the
199 limits of the lands claimed by the Caddo Indians, which was objected to, when the court rejected said evidence for the following reasons, viz: For reasons stated in the bill.

Which said ruling of the court plaintiff, by counsel, excepted, and tenders this his bill of exceptions for the signature of the judge.

April 18th, 1859.

(Signed) D. CRESWELL,
Judge, 18th Dist.

Except., bill marked B.

18th dist. court for the parish of Caddo, State of Louisiana.

ELIJAH CANNON
vs. } No. 5,186.
REUBEN WHITE.

Be it remembered, that on the trial of this cause plaintiff offered in

evidence the depositions of Charles Rambin, Neville Rambin, Onofre Flores, J. B. Lafitte, Pierre Robleau, Lestan Rambin, J. C. Lafitte, and others, witnesses residing in the parish of De Soto, taken under commission issuing from the 18th dist. court for the parish of Caddo, on the 6th day of March, 1858, parish of De Soto, when the court ordered part of the second answer of said Charles Rambin to be stricken out, and which is in the following words, to wit: "I do not know where
200 he resided in those years, but understood that he lived on Red river, in the parish of Natchitoches, on the right bank, descending;" and part of the second answer of said Nevile Rambin to be stricken out, and which is in the following words, viz: "I understood that he lived somewhere on the Red river bottom, in the parish of Natchitoches;" also part of the second answer of said Onofre Flores to be stricken out, and which is in the following words, viz: "I understood that he lived somewhere on Red river, but I do not know the particular locality."

The court also ordered to be stricken from the second answer of J. B. Lafitte, the words following, to wit: "As I learned from Edward McLaughlin himself."

The court also ordered to be stricken out from the second answer of said Lestan Rambin the words following, viz: "But understood that he was living on Red river in the years 1817, 1818, and 1819, in the parish of Natchitoches, on the right bank of the river, descending."

The court also ordered a portion of second answer of J. B. Lafitte, in the following words, to be stricken out, viz: "He told me
201 that Reuben White came to him to buy the land described in the report annexed to the interrogatories on his, John McLaughlin's, Rio Hondo claim, and that he told White that the land did not belong to him, but belonged to his father, Edward McLaughlin. He said further, that he told White that he did not want to sell it, because it did not belong to him, but that White was after him to get the land, and he, John McLaughlin, being a poor man, concluded to sell it and get something, as he did not risk anything, as White said he was willing to buy the land at his own risk. John McLaughlin got a horse, saddle, and bridle for the land, and I do not know what besides."

All which orderings and rulings were made for the following reasons:

The answers were all excluded, because hearsay, except the portions of the answers of J. C. Lafitte, and which was excluded because not responsive to the int'y, and because the declarations of McLaughlin out of his, White's, presence were inadmissible against the latter.

To which said rulings of the court the plaintiff, by his counsel, excepts, and tenders this his bill for the signature of the judge.

April 18th, 1859.

202 (Signed) D. CRESWELL,
Judge 18th Dist.

Bill of exception, marked C.

18th dist. court for the parish of Caddo, State of Louisiana.

ELIJAH CANNON
vs.
REUBEN WHITE. } No. 5,186.

Be it remembered, that on the trial of this cause plaintiff offered in evidence the depositions of Nat. A. Norris, dead, or absent from the jurisdiction of this court, taken under commission issuing from the 18th district court for the parish of Caddo, on the 26th day of March, 1850, before J. M. Campin, a justice of the peace for the parish Natchitoches, in the suit of Reuben White *vs.* Cullen McMullen, and known on the docket of said 18th district court for the parish of Caddo by number 1,640, for the purpose of proving possession by the vendors of plaintiff that John McMullen never had any of the land in controversy, and to prove fraud on the part of John McLaughlin and said Reuben White, and that the cut-off mentioned in the report of commissioners on claim of Dyson in the Pascagoula bayou, and that Norris island is Rush island, and that the land in controversy was never within the limits of the lands
203 claimed by the Caddo Indians, which was objected to, when the court rejected said evidence, for the following reasons, viz: For reasons stated at length in the bill of McMullen's testimony.

To which said ruling of the court plaintiff, by counsel, excepted, and tenders this his bill for the signature of your honor.

April 18th.

(Signed) D. CRESWELL,
Judge 18th Dist.

Bill of exception, marked D.

In the 18th district court in and for Caddo parish.

ELIJAH CANNON
vs.
REUBEN WHITE. } No. 5,186.

Be it remembered, that on the trial of this cause the plaintiff offered E. K. Hall, a material and competent witness, to prove the declarations of John McLoughlin, the vendor, to show the fraudulent character of the sale to Reuben White, to prove knowledge in said vendee, White, from the declarations of said vendor, McLaughlin, made to witness, Hall, at the time of the sale; and to prove from said declarations of vendor to witness, the want of consideration for said sale, and for this end plaintiff propounded to the witness, Hall, the following question:

"In the second conversation you had with McLaughlin con-
204 cerning the sale from him to White, state what McLaughlin told you as to the compensation he received for the land in controversy; what consideration was paid by White, and state fully all the declarations of said McLaughlin in regard to said sale."

Whereupon the court overruled said question on the ground that it was incompetent to prove the declarations of the vendor out of the presence of the vendee, even as the beginning of proof to show fraud in the vendee, and that the declarations of the vendor were inadmissible to vary or contradict an authentic act. To which ruling of the court plaintiff excepts, and tenders this his bill of exceptions.

(Signed) D. CRESWELL.
Judge 18th Dist.

Bill of exception, marked E.

18th district court for the parish of Caddo, State of Louisiana.

ELIJAH CANNON
vs.
REUBEN WHITE. } No. 5,186.

Be it remembered, that on the trial of this cause plaintiff offered in evidence the deposition of J. O. Poissot, dead, or absent from the jurisdiction of this court, taken under a commission issuing
205 from the 18th dist. court for the parish of Caddo, on the 26th March, 1850, before James W. Parsons, a justice of the peace in and for the parish of Desoto, in the suit of Reuben White *vs.* Cullen McMullen, and known on the docket of said 18th district court for the parish of Caddo by number 1,640, for the purpose of proving possession by the vendors of plaintiff that John McLaughlin never held any possession of the land in controversy, and to prove fraud on the part of John McLaughlin and Reuben White, and that the cut-off mentioned in the report of commissioners on claim of Edward Dyson, in the Pascagoula bayou; and that Norris island is Rush island; and that the land in controversy was never within the limits of the lands claimed by the Caddo Indians, which was objected to when the court rejected said evidence for the following reasons, viz:

For reasons stated in the bill taken to McCallum's testimony, April 18th, 1859.

(Signed) D. CRESWELL,
Judge 18th Dist.

To which said ruling of the court plaintiff, by his counsel, excepted, and tenders this his bill of exceptions for the signature of the judge.

(Signed) D. CRESWELL,
Judge 18th Dist.

206 *Bill of exception, marked F.*

18th district court for the parish of Caddo, State of Louisiana.

ELIJAH CANNON
vs.
REUBEN WHITE. } Known as 5,186.

Be it remembered, that on the trial of this cause John W. Mahle,

a witness on the part of plaintiff, having been sworn in chief, and having testified in the words and figures following, to wit:

"Is acquainted with defendant but not with plaintiff. Knows Captain Isaac Wright; known him for twenty years; knew him in town of Natchitoches; he was then a pilot or captain of steamboat; Wright lived a short time just below the mouth of Pascagoula bayou on Red river; don't know how long he remained. Defendant is in the place occupied by Wright. Wright lived there in the year '39. His wife was with him; he had no children; thinks there were no servants; never visited him there. Simmons lived on the place after Wright; and Simmons, Scarborough, McMullen, and Nesbit, and, he thinks, Ford, all lived on the place now in possession of defendant. Some of these professed to hold as tenants, and others claimed in their own right. Map H being shown witness, he says that the persons
207 above named resided on the tract marked Jno. McLoughlin, at different points along the river. They were scattered over the McLoughlin tract. Def't succeeded these persons in the possession. Simmons had 20 acres, more or less, in cultivation. McMullen had about the same or perhaps more. Nesbit's place had 8 or 10 acres cleared. Ford had a small place. Witness can't say exactly as to quantity as to any of them. Thinks there are now 250 acres cleared on the tract. Red river land is worth from 3 to $5 per acre rent. Defendant has cut and sold cord wood; don't know how much wood has been cut and sold. It is worth $1 50 to $2 per cord. Knew a man by the name of Stryder, John or Henry; don't recollect which. He is now dead. On reflection, is satisfied that Strider's name was Henry. Simmons claimed as tenant of Wright."

And upon his cross-examination, on a question put to him by defendant's counsel for that purpose, said witness stated that he was the son of John H. Mahle, an intermediate vendor of plaintiff, who had sold one-third or part or interest in the tract of land in
208 controversy to Isaac Wright, the immediate vendor of plaintiff, by act of sale 13th May, 1835, passed before John H. Johnson, parish judge of the parish of Rapides, said John H. Mahle being one of the vendees of Leonard Dyson, the other two of whom being Stephen Tippet and said Isaac Wright, the court, on motion of defendant, by his counsel, ordered the above testimony in chief to be stricken out, for the following reasons: That he declared that he was the heir of John H. Mahle, the vendor of Wright, and as such is liable for the restitution of the price of the sale, though there was a clause of no warranty in the act; to which ruling of the court plaintiff, by his counsel, excepts, and tenders this his bill of exception for the signature of the court.

(Signed) D. CRESWELL,
Judge 18th Dist.

Bill of exception, marked G.

18th dist. court for the parish of Caddo, State of Louisiana.

ELIJAH CANNON
vs.
REUBEN WHITE. } No. 5,186.

Be it remembered, that on the trial of this cause plaintiff, by his counsel, offered in evidence the testimony of William E. D.
209 Scarborough, taken under commission issued from this court before Bradford, a justice of the peace of the city of New Orleans, and marked , when the court ordered the words following, contained in second interrogatory, viz: "As indicated or marked out on the map annexed. If so, be pleased to state when his possession commenced. and how long it continued through himself, and his tenant, or lessees," to be stricken out. The court also ordered to be stricken out a portion of the second answer in these words, viz: "He was in possession of the land indicated; his possession commenced in 1845, it continues to the present time." The court also rejected the whole of third interrogatory and the answer thereto, and ordered them to be stricken out. The court also rejected a portion of the answer to the fifth interrogatory in these words, viz: "Indicated in my reply to these interrogatories." The court also rejected a portion of the fourteenth interrogatory in these words, viz: "As indicated on the map annexed," and also a portion of the answer thereto in the words, viz: "Except those indicated on the diagram an-
210 nexed to the interrogatories, and described in my preceding answers." The court also rejected the diagram annexed to and forming a part of said interrogatories for the following reasons: The court also rejected the whole of the answer to the 13th interrogatory. The map referred to was not made by an officer of the court; was altogether ex parte and non civita, even made by a survey; was not genuine, and therefore incompetent; besides a genuine map was already in evidence. The testimony excluded was based on answers indicated on the divisions of the map, which not being genuine, the answers were merely hypothetical and too vague to be admitted. The portion of the second answer excluded was inadmissible as contradicting the petition by proving possession in right of the alleged sale to Cannon; 13th answer is hearsay. To which ruling of the court, the plaintiff, by his counsel, excepts, and tenders this his bill of exception for the signature of the judge.

(Signed) D. CRESWELL,
Judge 18th Dist.

Bill of exceptions, marked H.

211 18th district court for the parish of Caddo, State of Louisiana.

ELIJAH CANNON
vs.
REUBEN WHITE. } No. 5,186.

Be it remembered, that on the trial of this cause, plaintiff offered in evidence the depositions of John Mc Collou, dead, or absent from the jurisdiction of this court, taken under commission issuing from the 18th district court for the parish of Caddo, on the 28th day of March, 1850, before P. A. Hotkinson, a justice of the peace for the parish of Ascension, in the suit of Reuben White *vs.* Cullen McMullen, and known on the docket of said 18th district court for the parish of Caddo by number 1,640, for the purpose of proving possession by the vendors of plaintiff, that John McLaughlin never had any possession of the land in controversy, and to prove fraud on the part of John McLoughlin and Reuben White, and that the cut-off mentioned in the report of commissioners on claim of Edward Dyson, in the Pascagoula bayou, and that Norris island is Rush island, and that the lands in controversy was never within the limits of the lands claimed by the Caddo Indians, which was objected to, when the court rejected said evidence for the following reasons, viz: An order for the issuance of a commission is necessary, and the
212 maxim "omnia præsumuntur, &c.," will not apply to aid the want of such order in a case where the depositions of a deceased witness, taken on a former trial, are offered, inasmuch as such testimony is liable to all objections that could have been offered in the first instance. The parties to the two suits were not the same, as Cannon had not answered at the issuance of the commission; the answer of Cannon in former suit prescribed issues not made by the answer of McMullen, the cause of action was not exactly the same, and the power of cross-examination more limited than in the present suit. It is clear the answers of witness could not have been used against Cannon upon objection. The rule admitting such testimony is one of convenience and equality, and as the testimony could not have been used against Cannon, it would be unfair to permit him to use it against White. To which ruling, plaintiff, by his counsel, excepts, and tenders this his bill, which he prays may be signed.

April 18th, 1859.

(Signed) D. CRESWELL,
Judge 18th Dist.

Bill of exceptions, marked I.

213 18th dist. court for the parish of Caddo, State of Louisiana.

ELIJAH CANNON
vs.
REUBEN WHITE. } No. 5,186.

Be it remembered, that on the trial of this cause, plaintiff, by counsel, offered in evidence the depositions of Robin Casey, dead, or absent from the jurisdiction of this court, taken under a commission

issuing from the 18th dist. court for the parish of Caddo, on the 24th day of July, 1849, before J. E. Cunningham, a justice of the peace for the parish of De Soto, in the suit of Reuben White *vs.* Cullen McMullen, and known on the docket of said 18th district court for the parish of Caddo, by number 1,640, for the purpose of proving possession by the vendors of plaintiff that John McLaughlin never had any possession of the land in controversy, and to prove fraud on the part of John McLaughlin and said Reuben White, and that the cut-off mentioned in the report of commissioners on claim of Edward Dyson, is the Pascagoula bayou, and that Norris island is Rush island, and that the land in controversy was never within the limits of the lands claimed by the Caddo Indians; which was objected to, when the court rejected such evidence, for the following reasons, viz:

214 For reasons stated in the bill to McCullen's testimony, to which said ruling of the court, plaintiff, by counsel, excepts, and tenders this his bill of exceptions for the signature of the judge.

April 18th, 1859.

Signed) D. CRESWELL,
Judge 18th Dist.

Bill of exceptions, marked J.

In the 18th judicial district of Louisiana, in and for Caddo parish.

ELIJAH CANNON
vs. } No.
REUBEN WHITE.

Be it rembered, that on the trial of this cause, the plaintiff, by his counsel, asked the court to instruct the jury as follows, viz: First. That if the jury find that Edward McLaughlin, the original settler, did occupy, inhabit, and cultivate the land in controversy, situate in the late neutral territory, on and prior to the 22d day of February, 1819; that so soon as the act of Congress of 3d March, 1823, was passed, the settlers within its purview were authorized to consider as theirs the land on which they were established, and that their title was created by the law of 1823, not by the confirmatory act of 24th May, 1828, which was nothing than the acknowledgment that the title existed. Second. That it is the duty of the jury to inquire

215 whether the land in controversy was within the limits of the lands claimed by the Caddo Indians, and that if they find the land was not in the limits of the Caddo reservation, they are instructed to consider the act of 24th May, 1828, as an unconditional and absolute confirmation of the claim of Leonard Dyson, assignee of Edward McLaughlin. Third. That the suspensive condition in the act of 24th May, 1828, has been fulfilled upon proof that the land claimed by Dyson, assignee of McLaughlin, did not lie within the limits of the lands claimed by the Caddo Indians; all which special charges to the jury asked by the plaintiff was refused and overruled by the court on the following grounds: 1st. Because settlers had no right to consider the land occupied theirs until the provisions of the

law were complied with. The substance of the 2d and 3d charges I submitted as matters to be determined by the jury, and did not think it my duty to reconcile an opinion; and besides, it was against the propositions asked to be charged. To which ruling of the court the plaintiff excepts, and tenders his bill of exception, praying
216 that it may be signed and made a part of the record in this cause, which was accordingly done.

Done and signed in open court this 18th day of April, 1859.

(Signed) D. CRESWELL,
Judge 18th Dist.

Bill of exception, marked (1.)

18th district court, parish of Caddo, La.

E. CANNON *vs.* R. WHITE. } No. 5,186.

Be it known, that on the trial of this cause the plaintiff, by his counsel, offered in evidence certain correspondence of the land department in regard to claim of Isaac Wright, to the introduction of which testimony the defendant, by his counsel, excepted, upon the ground that the same is "res inter alios acta," hearsay, and the declarations of third persons unsworn to; but the objection was overruled, and the testimony admitted to show same issue. To which ruling of the court defendant, by his counsel, excepts, and files this bill of exceptions, which he prays may be signed, and which is accordingly done in open court, this 18th day of April, A.D. 1859.

(Signed) D. CRESWELL,
Judge 18th.

Bill of exception, marked No. (2.)

In the district court, parish of Caddo, La.

217 CANNON *vs.* WHITE. } No. 5,186.

Be it remembered, that on the trial of this cause the plaintiff, by his counsel, offered in evidence the suit or records No. 1,640, entitled R. White *vs.* C. McMullen, 1,641; R. White *vs.* D. McMullen, 1,644; R. White *vs.* Scarborough, 1,643; R. White *vs.* Nesbit, to the introduction of which testimony the defendant, by his counsel, objected, upon the ground that these suits and records were "res inter alios acta," and the answers of defendants in said suits, and the other pleadings and answers, could not be used in evidence against the defendant in this suit, being nothing more than the answer to statements of the parties or their counsel, and that such evidence is irrelevant and inadmissible under the pleadings in this cause, but the objection was overruled, and the testimony admitted to prove, rem ipsam, the existence of suits against tenants, and hence the tenantry and possession. To which ruling of the court the defendant, by his

counsel, excepts, and files this bill of exceptions, which he prays may be signed, and which is accordingly done in open court, this 18th day of , 1859.

(Signed) D. CRESWELL,
Judge 18th Dist.

218 *Bill of exception, filed and marked* (3.)

In the district court, parish of Caddo, La.

E. CANNON
vs.
R. WHITE.

Be it remembered, that on the trial of this cause the court, after hearing the argument on the exceptions contained in the beginning of the answer filed April 8th, 1859, overruled that portion of the exception marked (2,) and which charges that the proper parties are not made to the suit, and also so much of the exception (3) as declares that plaintiff's petition and amended petition disclose no cause of action, and ordered the remaining portion of said exception to stand as part of the answer. To which ruling of the court defendant, by his counsel, excepts, upon the ground that the judgment of the court is erroneous in ruling that the suit should be maintained, when the same should have been dismissed for the grounds set forth in that portion of the exception overruled, and for the further reason that the exception, as presented entire, ought to have been decided by the court, and not made to stand as part of the answer, and should be de-

219 cided in favor of the defendant, and said suit dismissed (by the court.) The exception presented, 1st, a dilatory exception made after a default; i. e., new joinder of parties. 2d. A peremptory exception founded on law, which was overruled. 3d. Matters of defence ordered to stand as part of the answer. It was my opinion the suit should be decided on its merits and upon all the the facts.

(Signed) D. CRESWELL,
Judge 18th Dist.

Bill of exception, marked (4.)

18th district court, parish of Caddo, La.

E. CANNON
vs. 5,186.
R. WHITE.

Be it known that on the 5th April, A. D. 1859, the plaintiff, by his counsel, moved the court for an order of survey, directed to a United States deputy surveyor, to make survey, as prayed for in his original motion for order of survey, and defendant's counsel excepted to granting such order, because the person to whom it is proposed to direct the order is not an officer of this court, and has no authority,

and is not sworn and qualified to make such survey; but the court overruled the objections, and granted the order directed to Edgar Franklin, to which ruling of the court the defendant, by his counsel, excepts, and files this bill of exception, which he prays may
220 be signed, and which is accordingly done in open court. I do not remember whether the ruling on the order of survey was objected to or not at the time it was given; at any rate, the reason for the order was because a previous one issued to parish surveyor, who reported a survey impracticable, on account of high water last spring; and counsel suggested that it was now practicable, and could be more easily done by Franklin, and as it was necessary one should be made, and hence I appointed Mr. Franklin, a U. S. D. surveyor, for the purpose.

Def'ts bill of exception, marked (5.)

In the district court, parish of Caddo, La.

ELIJAH CANNON
vs. } 5,186.
REUBEN WHITE.

Be it remembered, that on the trial of this cause the plaintiff, by his counsel, offered the testimony of Mary B. Akins and Mrs. E. D. McMullen, taken under commission marked ("F,") of T. H. Pitts, W. E. D. Scarborough, (taken under commission and marked "J,") Dr. R. Nesbit, taken before Robeson, by consent, marked "K;" E. H. Hall, R. V. Marye, affidavit of John McLaughlin, marked
221 "P;" testimony of Charles Rambin, marked ("2,") N. Rambin, ("R.") O. Flores, ("S,") J. B. Lafitte, ("F,") Pierre Robleau, ("U,") Lestan Rambin, ("V,") Simon Desoto, ("N,") J. C. Lafitte, ("X,") Louis Lafitte, ("Y,") and other parol testimony, to the introduction of all which testimony the defendant made these four general exceptions.

1st. It is not competent for plaintiff to introduce parol evidence to sustain a petitory action, or to prove title to land or ownership to the same.

2d. It is not competent for plaintiff to introduce parol evidence to contradict, vary, change, add to, or explain a written title for land.

3d. It is competent for plaintiff to introduce parol or any other evidence to attack the patent or sales referred to in the petition collaterally as they can only be attacked in a direct action to annul them, and after all the parties to the act are before the court.

4th. It is not competent for plaintiff in this suit to introduce parol evidence or any other to show possession with the view of establishing a title by prescription, as the petition declares that the only pos-
session or title he claims under is from the government of the
222 United States of America, and for the four reasons above stated, the whole of the evidence referred to is irrelevant under the pleadings, incompetent and inadmissible. Defendant further specially objected to the testimony of Mrs. M. B. Akins, that so far as it goes to prove a claim of ownership, a possession of Isaac Wright

or tenancy under him, after 28th June, A. D. 1840, it is inconsistent with and contradicts the petition, and further objected to her answers because the evidence was hearsay. But the objections (except the objections as to hearsay) were overruled and the testimony, except so much as is marked and noted on book of evidence rejected as hearsay, was admitted. Parol proof of possession was admitted to show possession subsequent to the alleged confirmation, in support of prescription to show intention of parties under conveyances with a view to correct misdescription, the locus in quo, and fraud.

And the defendant further specially objected to the testimony of Mrs. E. D. McMullen upon the same grounds stated in the special objections to testimony of Mrs. Atkins, but the objection was
223 overruled, and the testimony, (except so much as is marked in book of evidence as hearsay,) was admitted for reasons above stated.

To the testimony of Scarborough, defendant, specially objected :

1st. That the map annexed is not shown to be genuine, and that the answers contradict and are inconsistent with the petition. To the 4th inty. and answer, that title cannot be shown by this kind of proof. To 5th inty. and answer, that it contradicts and is inconsistent with petition to 6th inty. and answer, as inadmissible in a petitory action. To 7th, 9th and 10th inty. and answer, not admissible in a petitory action and no allegation in petition to authorize such testimony and answer is not responsive to the interrogatory. To 11th for like reasons. And 12th inty. and answer, for like reasons. To 13th inty. and answer, that witness states an opinion and not a fact, and his answer is hearsay. To 14th inty. and answer, that map referred to is not genuine, and further, that all said testimony is hearsay. But the special objections were overruled and the testimony of Scarborough admitted, (except certain portions of 2d inty. and answer, the whole of the 3d answer, part of the 5th and whole of 13th, and part of 14th, marked in book of evidence as ex-
224 cluded,) and defendant further specially objected to the answers of Pierre Robleau to the 7th, 12th, and 13th intys. as being the opinions of witness and not facts, and the answer of Lestan Rambin to the 7th inty. on same ground, but this special objection was overruled and the testimony admitted.

And defendant specially objected to the answers of Joseph C. Lafitte to the 4th and 7th intys. as not responsive to the questions, and as stating hearsay, and also stating an opinion and not facts, but these special objections were overruled and the testimony admitted, except certain portions of the answers referred to marked as excluded in the book of evidence.

And the defendant further specially objected to the answers of Louis Lafitte to the 7th inty. as stating an opinion and not a fact, but the special objection was overruled and the testimony admitted.

And the defendant further specially objected to the paper called the affidavit of John McLaughlin, (marked P,) because not being a judicial oath, it can have no more weight than the mere declaration of the person, and was not made in presence of defendant

225 and was hearsay, but the objection was overruled and the testimony admitted.

Defendant further specially objected to the testimony of E. K. Hall, as hearsay, but the special objection was overruled and the testimony admitted.

And all said general and special objections were overruled and the testimony admitted. The other testimony objected to admissible under the allegations and competent. To all which rulings of the court the defendant by his counsel excepts and files this bill of exception, which he prays may be signed, and which is accordingly done in open court, this April 18th day of A. D. 1859.

(Signed) D. CRESWELL,
Judge 18th Dist.

Bill of exception, marked (6.)

18th district court, parish of Caddo, La.

E. CANNON
vs. } 5,186.
R. WHITE.

Be it remembered, that on the trial of this cause the plaintiff offered in evidence a paper purporting to be an affidavit of John McGlochlin, the introduction of which was objected to by defendant on the ground that it was hearsay, "res inter alios acta," and the oath not being judicial, it was no more than the verbal declaration
226 of the party and not competent evidence under the pleadings in this cause, but the objection was overruled and the paper admitted, filed and marked (P,) admitted to prove rem ipsam and fraud in McLaughlin. To which ruling of the court defendant by his counsel excepts and files this bill of exceptions, which he prays may be signed, and which is accordingly done in open court, this 18th day of April, A. D. 1859.

(Signed) D. CRESWELL,
Judge 18th Dist.

Exception filed and marked "7."

18th district court, parish of Caddo, La.

E. CANNON
vs. }
R. WHITE.

Be it remembered, that on the trial of this cause the plaintiff, by his counsel, offered in evidence the plat of survey by E. Franklin, marked "X," to the introduction of which defendant, by his counsel, objected on the following grounds:

1st. The surveyor acting is not an officer of this court, of this State, or of the United States.

2d. He gave no notice to defendant of his proceedings.

3d. Said Franklin had none of the title papers plaintiff de-
227 clares on when making the survey, and was ignorant of their contents.

4th. There was already an existing order directed to the parish surveyor to make a survey.

5th. Said Franklin had no knowledge of the existence or location of any improvement of Edward McLaughlin, and no evidence was furnished him on that point.

6th. Said survey was not made under oath, nor were those assisting in it sworn, and the plat and return is nothing but the statement of a person not sworn to.

7th. If Edward McLaughlin ever had any claim based upon habitation and occupation, this survey does not include the improvement which he had, if any.

8th. If said Edward McLaughlin was entitled to any land by virthe of the act of Congress relied in the petition, it could only be located and surveyed under the direction of the register and receiver of the proper land office as mentioned in said act of May 24th, 1828, U. S. Statutes at Large, vol. 6, page 383, No. 92.

9th. Commission, under which the survey was made does
228 not conform to the order of the court.

10th. The survey is incorrect, and even if Edward McLaughlin had a claim, if properly surveyed so as to include the improvement of Edward McLaughlin, according to the evidence, it would not have to include any land now in possession of defendant. And in support of these objections defendant offered to prove by N. E. Wright, clerk of this court, and by said Franklin himself, that defendant had no notice of his proceedings, and that the title papers declared on by plaintiff did not accompany the commission directed to said Franklin, and that said Franklin had no knowledge of the locality of any improvement made by Edward McLaughlin, but the court refused to hear the witnesses, because this was not the time to urge such objections, as the witnesses might prove, as their testimony was matter of rebuttal, and to follow the examinations of Franklin himself, who was about being put on the stand, and overruled the objections and admitted said plat and survey to be filed in
229 evidence—not as a genuine map, but in order to explain the testimony of Franklin, and, as far as it could, the locality of the lands. To which ruling of the court defendant, by his counsel, excepts, and files this bill of exceptions, which he prays may be signed, and which is accordingly done in open court this 18th day of April, A. D. 1859.

(Signed) D. CRESWELL,
Judge 18th Dist.

Judgment.

18th district court, parish of Caddo, La.

E. CANNON
vs. } No. 5,186.
R. WHITE.

In this case, by reason of the law and the evidence and the verdict of the jury on the trial of this cause being in favor of the defendant, Reuben White, it is therefore ordered, adjudged, and decreed that there be final judgment in favor of the defendant, Reuben White, and that plaintiff pay costs. Thus done and signed in open court this 30th day of April, A. D. 1859.

(Signed) D. CRESWELL,
Judge 18th Dist.

Motion for new trial filed April 22d. '59.
E. H. PENNALL, *Deputy Cl'k.*

18th dist. court.

230 E. CANNON
vs. } No. 5,186.
R. WHITE.

Now comes plaintiff in the above-entitled suit, and prays for a new trial herein, on the ground that the verdict is contrary to the law and evidence, by his att'ys, Winans, Drew, Weems & Heath.

From minutes.

April 22d, '59, the following order was entered to wit:

E. CANNON
vs.
R. WHITE.

Motion for new trial filed, and motion overruled.

And then afterwards, to wit, April 26th, '59, the following order was entered, and motion filed.

Motion for appeal filed 26 Apr'l, 59.
E. H. PENNALL, *Dep'ty Cl'k.*

18th dist. court.

E. CANNON
vs. } No. 5,186.
R. WHITE.

Now comes plaintiff in the above-entitled case, and feeling himself aggrieved by the verdict and judgment in the same, moves this hon'l court to grant him a devolutive and suspensive appeal from said judgment to the supreme court of this State, sitting at Monroe, returnable on the 2d Monday of July, 1859, on petitioner's given bond
231 as required by law. Further, for general relief, &c., by his att'ys, Winans, Drew, Weems and Heath.

Order from minutes.

E. CANNON
vs.
R. WHITE.

Motion for appeal filed, and appeal granted, and ordered by the court that the bond in case of a devolutive appeal be fixed at $250 00, and in case of a suspensive appeal be fixed according to law. Whereupon it is ordered by the court that the same be made returnable to the supreme court to be holden at the town of Monroe, parish of Ouachita, State of La., on the 2d Monday of July next, 1859, and def't's counsel being present, takes cognizance and waives service.

Appeal bond filed June 11th, '59.

N. E. WRIGHT, *Clerk.*

State of Louisiana, parish of Caddo, No. 5,186, in district court.

Know all men by these presents, that we, Elijah Cannon as principal, and John N. Howell as security, are held and firmly bound by these presents unto Reuben White in the sum of two hundred and fifty dollars, ($250 00,) which we hereby bind ourselves, and our heirs in solido, to pay. Dated at Shreveport, La., this 30th day of
232 May, A. D. 1859. The condition of the above obligation is such that whereas the said Elijah Cannon in a suit, wherein he is plaintiff, and Reuben White is defendant, numbered on the docket 5,186, has obtained from the hon'l the district court of the parish of Caddo, State of Louisiana, an order granting the said Elijah Cannon a devolutive appeal from a certain final judgment rendered in said suit, No. 5,186, and in favor of defendant. Now, therefore, if the said Elijah Cannon shall prosecute his said appeal with effect, and shall pay or cause to be paid all such costs and damages as may be awarded against him, then and in that case this obligation to be null and void, otherwise to be and remain in full force and virtue.

(Signed) E. CANNON.
(Signed) J. N. HOWELL.

State of Louisiana, parish of Caddo.

I, Newton E. Wright, clerk of the eighteenth judicial district court in and for said parish and State, do hereby certify that the foregoing one hundred and twenty-one pages, numbered from 1 to 121,
233 inclusive, contain a true, correct and and faithful transcript of all the proceedings, had, evidence adduced and documents filed, together with five maps attached to this transcript, in the suit wherein Elijah Cannon is plaintiff and Reuben White is defendant, numbered on the docket of said court 5,186, on file, and of record in my office.

Given under my hand and seal of office this June 11th, A. D. 1859.

(Signed) N. E. WRIGHT, *Clerk.* [SEAL.]

Agreement of counsel.

CANNON *vs.* WHITE. } Appeal from Caddo, Creswell, J.

It is agreed between the parties to the above-entitled case that the transcript and proceedings herein be transmitted to New Orleans, to await the next session of the supreme court of that city, there to receive the final decision of the court.

It is further agreed that the delay within which a rehearing of said case may be urged shall be within thirty days after notice
234 served upon the counsel of the party against whom judgment may be rendered, which notice shall be transmitted by the clerk of the supreme court to the sheriff of the parish of Caddo, and by him served; said case to be decided in the month of January next, or otherwise to be decided at the next session of the supreme court at Monroe, La., in which event the "Code of Practice" is to govern.

July 18th, 1860.

(Signed) WINANS & HEATH, *for Pl'ffs.*
(Signed) LANDRUM & WILLIAMSON,
Signed) B. L. HODGE,
Att'ys for Def't.

Indorsed: No. 718. Elijah Cannon *vs.* Reuben White. Appeal from Caddo.

Agreement filed July 18th, 1860.

(Signed) H. M. BRY, *Cl'k.*

Transcript indorsed: Supreme court State of La., Monroe, W. D. No. 718.

Filed July 12th, 1859.

H. M. BRY, *Cl'k.*

235 ELIJAH CANNON, app't, *vs.* REUBEN WHITE, app'ee. } No. 35.

Supreme Court State of Louisiana, New Orleans, E. D.

Filed January 31st, 1861.

EUGENE LASERE, *Clerk.*

Weems and Meath for app't, Landrum, Hodge and Bonford, for app'ee.

236 *Opinion and decree.*

Proceedings in the supreme court of the State of Louisiana, eastern district.

Supreme court of the State of Louisiana.

The court met Thursday, January 31st, 1861. Present their hon-

ors E. T. Merrick, chief justice, A. M. Buchanan, Thomas T. Land, Albert Voorhies, and Albert Duffel, associate justices.

Mr. Justice Land recused himself.

ELIJAH CANNON, app't,
vs.
REUBEN WHITE, app'ee. } No. 35.

Appeal from the eighteenth judicial district court of the parish of Caddo.

In this cause Mr. Justice Duffel this day delivered the opinion of the court in writing in the words and figures following:

The plaintiff is appellant from a judgment of the district court rendered on a verdict of a jury adversely to his claim.

This is an action for the recovery of six hundred and forty acres of land, situated on Red river, which the plaintiff, as assignee of
Edward McLoughlin, by a regular chain of title, claims by
237 right of occupation, habitation, and cultivation prior to and on the twenty-second of February, eighteen hundred and nineteen, under the provisions of the act of Congress approved March third, eighteen hundred and twenty-three, entitled, "An act providing for the examination of the titles of land in that part of the State of Louisiana situated between the Rio Hondo and the Sabine river," and an act supplementary thereto, approved May 26th, 1824.—(See United States Statutes at Large, vol. 3, p. 756, chap. 30, and vol. 4, p. 65, chap. 182.)

In support of his claim, the plaintiff produced in evidence a report made on the 1st November, 1824, to the Secretary of the Treasury, by the register and receiver of the southwestern land district, wherein they declare, that "on this testimony we are of opinion the claim ought to be confirmed, and have consequently in the abstract classed it with the third class of claims." This claim is described in the report, as "a tract of land lying within the late neutral territory, situated on the waters of Red river, on the southeast side of the cut-off which forms Norris island, bounded on all sides
by vacant lands, and containing 640 acres," and is described
238 in the abstract as follows: No. 5,186, p. 2.

THIRD CLASS.

No.	Names of claimants.	Situation of claim.	Quantity.
.....	Leonard Dyson, ass'ee of Edw'd McLaughlin.	Red river	*Acres.* 640

The plaintiff contends that the above claim was confirmed by an act of Congress, approved May 24th, 1828, entitled "An act to confirm claims to lands in the district between the Rio Hondo and the

Sabine rivers, founded on habitation and cultivation." (See U. S. S. Statutes at Large, vol. 6, p. 382, chap. 92.)

The first section of said act provides "that the claims to lands founded on habitation and cultivation reported for confirmation by the register and receiver of the southwestern district of Louisiana, in their report dated November first, eighteen hundred and twenty-four, in conformity to the provisions of the acts of Congress of the third of March, eighteen hundred and twenty-three, and twenty-sixth of May, (1824,) eighteen hundred and twenty-four, contained in the third class of the report of said register and receiver be, and the same are hereby, confirmed, except claim number forty-two near Cantonment Jesup, and the claims of Leonard Dyson, Nos. fourteen and eighteen * * * * * which claims
239 are suspended until it is ascertained whether they are situated within the limits of the lands claimed by the Caddo Indians." The second section provides "that the confirmations made by this act shall not be construed to extend further than to a relinquishment of title on the part of the United States, and the claims hereby confirmed shall be located under the direction and receiver of the proper land office, in conformity with the legal subdivisions of the public surveys, so far as practicable, and shall include the improvements of the claimants respectively." The plaintiff also claims title by prescription, based upon a continued and uninterrupted possession, as owner, for more than thirty years, and charges that said land was confirmed in the name of one John McLoughlin on false and fraudulent representations and affidavits, and that the defendant, Reuben White, well knowing the spurious evidence upon which the claim of John McLoughlin rested, did, nevertheless, purchase said land from John McLoughlin, and holds illegal possession of the same under his above title; and the plaintiff concludes by demanding to be re-
240 cognized as the lawful owner of said land, and also that the defendant be condemned to pay to him, for the illegal detention of said property, three thousand dollars, and the further sum of twenty-five hundred dollars per annum for the rents and profits of the said lands, from 1st of January, 1853, until the final decision of this suit.

The defendant, in his answer, after setting up a title in himself, denies the right of action of the plaintiff, under the allegations of his own petition, and in support of his title he produced in evidence, 1st, the separate reports made on the 30th May and the 6th June, 1840, by the register and receiver of the land office at Opelousas, under the provisions of the act of Congress approved 6th of February, 1835, and entitled "An act for the final adjustment of claims to lands in the State of Louisiana," (see U. S. Statutes at Large, vol. 4, p. 749, chap. 17,) which report states, under No. 162, "that John McLoughlin claims 640 acres of land situated on the neutral territory between the Rio Hondo and Sabine rivers, and lying on the right bank of Red river, descending, below and contiguous to Pascagoula bayou, and about 60 miles by land from the town of Natchitoches, founded

241 on habitation and cultivation by the claimant on and prior to the 22d of February, 1819."

Proof of said habitation and cultivation as aforesaid is made by the affidavit of the claimant and the testimony of two witnesses.

2dly. An abstract and alphabetical list of Spanish and Rio Hondo claims, reported by the register and receiver of Opelousas, State of Louisiana, May 15th, 1840, as follows:

No. of claim.	Page.	By whom claimed.	Quantity and location.	Class.
162.....	116	McLoughlin, John..	640 acres, late neutral territory, right bank red river, below and contigu's to Pasag'a bay, Natchitoches.	2. B.
o o o	o	o o o	o o o o	o

3dly. An order to survey and locate the claim of John McLoughlin, No. 162, bearing date October 12th, 1842, and a certificate of the report and confirmation of the claim by the act of Congress approved July 6th, 1842, entitled "An act confirming certain land claims in Louisiana."—(See U. States Stat. at Large, vol. 5, page 491, chap. 50.) The seventh section of said act provides "that the
242 claims to lands within the district, south of Red river, being numbers thirty-three one hundred and sixty-two of the reports of the register and receiver of the land office at Opelousas, dated the thirtieth May and sixth of June, eighteen hundred and forty, made under the provisions of the act of eighteen hundred and thirty-five, aforesaid, be, and the same are hereby, confirmed, &c.," and the ninth section of said act provides "that the confirmations made by virtue of the two preceding sections shall only operate as a relinquishment of the right of the United States, and shall not affect the right of third persons, nor preclude a judicial decision between private claimants for the same land, and *and* on the presentation to the Commissioner of the General Land Office, of the plat of survey, duly proved by the surveyor general of Louisiana, the claimant shall be entitled to a patent."

4th. A survey and location of claim No. 162, made November 15th, 1842, and approved March 3d, 1843, by the surveyor general of Louisiana.

5th. A patent dated September 20th, 1844, in favor of John McLoughlin, for claim No. 162, surveyed and designated as section 34, containing 621 23-100 acres in T. 16 north, of range 12 W., in the northwestern land district in the State of Louisiana, containing
243 the following reservations, "but in no manner to effect the rights of third persons, nor to preclude a judicial decision between private claimants for the same land."

6th. The transfer of said land from John McLoughlin to the defendant, by act dated June 22d, 1848, and an act explanatory thereof, dated September 13th, 1848. The record contains seventeen bills of

exception, ten having been taken by the plaintiff, and seven by the defendant. The defendant did not, however, urge in this court any of the bills taken by him to the rulings of the court below; which fact, according to the practice of this court, is a waiver.—(Williams *vs.* Bridge *et al.*, 14 An., 721.) We will not undertake the onerous task of reviewing, seriatim, the bills of exception of the plaintiff to the rulings of the district court rejecting and excluding a portion of his evidence, but we will dispose of them in globo.

It is a cardinal principle that in cases of fraud and simulation, great latitude in the introduction of evidence is allowed, leaving to the court and jury to determine, from all the surrounding circumstances, the weight and effect of such evidence; thus, the conversations and admissions of the parties, even when not made in
244 the presence of each other, their acts and actions, are, under the above restriction, admissible in evidence.—(Gindry *vs.* Grivot, 2d U. S., 13; Davis *vs.* Stern, 15 Arm., 177; Myers *et al. vs.* Chaney, *et al.*, 13 Arm., 207.) And even in matters of conflicting settlements upon public lands, the acts and conversations of the parties are admissible in evidence, the *the* objection going to their effect.—Franklin *vs.* Woodland, 14 Arm., 188.)

The district court ruled that a previous order for the issuing of commissions to take testimony was indispensable. The commissions alluded to were issued by the clerk under the first section of the act of 1846, p. 63, which authorizes specially the clerks of the several district courts to issue "commissions to take testimony, in and out of the State, to fix the return day thereof, and to appoint commissioners to execute the same." It was held in the case of Bradford *vs.* Cooper, 1 Arm., 325, that a commission officially signed by the judge himself was a sufficient approval of the commission and a sufficient order, in the intendment of the various articles of the code of practice on the subject. The legislature had, under the constitution of 1845, as it now has under the present constitution,
245 "the power to vest in clerks of courts authority to grant such orders, and do such acts as may be deemed necessary for the furtherance of justice;" and therefore if the issuing of a commission by a judicial act, the ruling in the case of Bradford *vs.* Cooper would apply with equal force to commissions issued by clerks. Such in fact was the decision rendered in the case of Ferriber *vs.* Latting, 9th Arm., 169, under the statutes of 1850, p. 99, which is, as far as this point is concerned, a re-enactment of the act of 1846.

The district judge ruled out the testimony taken on the above-mentioned commissions, for the further reason that the commissions having issued in several cases, wherein the present defendant was plaintiff, at the instance of the defendants in the said causes, to wit: the lessees of the present plaintiff, before the latter had made his appearance on the call of his lessees to defend the suits, (these suits were for the recovery of the land now in dispute,) the defendant could have successfully excluded the testimony, and it would therefore be unfair to permit him to use it against White in the present action. We will here remark that the witnesses who testified

246 in the above cases are either dead or absent from the jurisdiction of the court.

In the case of Clossman *vs.* Barbancey, 7th Rob., 438, we find the following language: "The rule applicable to cases of this sort is thus laid down in Mr. Greenleaf's treatise on evidence, page 589: With respect to depositions, complete mutuality or identity of all the parties is not required. It is generally sufficient, if the matters in issue were the same in both cases, and the party against whom the deposition is offered had full power to cross-examine the witnesses." The deposition in question comes, we think, within the above rule, which appears to us a reasonable one, and it should have been admitted. In the case at bar the object of the suit is the same; fraud, here as in the other suits, is charged against White and his author, and the title of White was assailed and the one of Cannon opposed to it, and White had a full opportunity to cross-examine the witness.

The testimony of John W. Mahle was improperly rejected on the score of interest, for sale of the undivided third of the land in
247 dispute made by his father, now deceased, was a sale of all his right, title, interest, claim, and pretensions, without any warranty or recourse whatever; the purchaser therefore bought at his own risk and peril, and could not claim restitution.—(C. C. 2,481; Hall *et al. vs.* Nevill, 3 An., 326.)

We will therefore consider the rejected testimony, which come up with the record, discarding matters of pure opinion, and all hearsay evidence which does not fall within the purview of public notoriety, and giving to the rest such weight and effect as the nature of the case will justify.

As we have above stated, the plaintiff contends that his claim was confirmed by the above recited act of May 24th, 1828. We have no doubt that, had it been ascertained at the time of the passage of the act, that the claim, number 14, of Leonard Dyson, as assignee of Edward McLaughlin, did not lie within the Caddo Indians, it would have been confirmed. And it is now fully demonstrated that the lands of the Caddo Indians did not cover the claim No. 14.—(See treaty between the United States and the Caddo nation, dated July 1st, 1835, and promulgated February 2d, 1836; U. S. Statutes at Large,
248 v. 7, p. 470.) We cannot however give the act of May 24th, 1828, the construction which the plaintiff places on it, for we do not understand the words of the act to say or mean that the claim is confirmed subject to a certain contingency, to wit: that it did not fall within the Caddo Indian territory. It was not the effect of the confirmation which was suspended, for the act did not confirm the claim, but the action of Congress on the claim itself was suspended, and reserved for its subsequent consideration, after the ascertainment of a particular fact; thus requiring the further action of Congress to complete the title of the plaintiff. Nor, indeed, can it be said that the act reserved the land for sale, or precluded the United States from disposing of the same, by sale, donation, or otherwise, for the land was not surveyed, located, or described in such a manner as to designate it with sufficient certainty.—(Menarod's heirs *vs.* Massey, 8th Howard, 293. Cousin *vs.* Blanc's executor *et al.*, 19 Howard, 80.)

We are also clearly of opinion that the title to the land in controversy has passed from Congress, and forms no longer the part of the public domain; and also that the apparent title is in the defend-
249 ant; hence that the pretensions of the litigants must be determined by our State laws and judicature.—(Wilcox *v.* Jackson, 13 Peters, Curtis, vol. 13, p. 276.)

The act of Congress confirming the claim of John McLaughlin, and the patent issued under said act, both reserved to third persons their right of action.

Were this to be viewed simply as a petitory action, when the plaintiff must succeed on the strength of his own title and not on the weakness of the adverse title, the case would be against him; for his title unaided would have no standing in a court of justice.—(E. Hiestand *v.* Gideon C. Forsyth, 12 Rob., 371; Bookout *v.* Anderson, 2 Arm., 246; W. Penn *v.* Holme, 21 How., 481.)

But if it be true that John McLaughlin obtained from Congress a quit-claim to the land in dispute by falsely and fraudulently attributing to himself the occupation, habitation, and cultivation of his father, Edward McLaughlin, and that the defendant was cognizant of the fraud practiced on the register and receiver, then this court will, under the prayer of the plaintiff, "for all legal, equitable, general, and special order in the premises," decree the patent, and the
250 land covered under *under* it, to the plaintiff. The nature of the case is such, that any other ruling, or order, in the event of the required proof being made, would perpetuate the fraud, for this court is powerless to nullify an act of Congress on account of fraud practiced on its officers; but we deem it perfectly competent to carry out the intention of the sovereign power which was to give the land to the party who had cultivated and made a habitation thereon.

The Supreme Court of the United States, and this court, have, on more than one occasion, decided that persons who obtain patents by a suppression of a part of the facts of the case will not be permitted to derive any benefit thereby, but that such patents will enure to the parties entitled to recover the lands thus patented.—(Kittridge *vs.* Brand, 4 Rob., 79; Knox *vs.* Pulliam, 14 Arm., 123; Lytle *et al. vs.* State of Arkansas *et al.*, 22 How., 202, and the cases therein cited.)

We can see no good reason why the principal should not be extended to the case of the person obtaining a title in his own name, by fraudulently basing his demand on the habitation and cul-
251 tivation of another, when the equitable right of the latter would otherwise be without any remedy. Thus we are called upon to examine the question of fraud, both in the grantee, John McLaughlin, and his vendee, the defendant.

The evidence is conclusive that John McLoughlin never cultivated any portion of the land patented to him, nor lived on it otherwise than under the roof of his father, and that the register and receiver were grossly imposed upon by false representations and affidavits; and this evidence, which is otherwise abundant, is fully and completely corroborated by a written admission, in the form of an affidavit, of John McLoughlin, made in 1843. The evidence is equally

certain that Edward McLoughlin inhabited and cultivated the land in controversy on and prior to 22d of February, 1819, and that he had no neighbor for a distance of several miles around. The fact that Edward McLoughlin had two small clearings or fields, and that the survey and location of the claim No. 162 embraces but one, is immaterial; and the misdescription of the land as to boundaries in all the transfers from Leonard Dyson to the plaintiff, is of no
252 consequence, because it is proven that Dyson never owned any other land in the neighborhood; and, besides, the locality is well defined by witnesses who speak of the same, some of whom occupied different portions as lessees of the plaintiff's vendor, Wright.

The defendant does not legally stand in a more favorable light before us. He had full and ample means of knowledge; he knew two years before buying that the occupants, or at least some of the occupants of the land, held the same as the lessees of the plaintiff's immediate vendor. After the sale he bought out some of the tenants, sued others, and dismissed the actions after he had, by that means, possession, and, we have no doubt, for the purpose of avoiding the issues of fraud made in the case in which the present plaintiff had intervened. The price purported to have been given was not serious; in fact, all the surrounding circumstances, the acts, actions, and declarations of the parties, the rumors which were then rife in the community, all tend to the conclusion that the defendant well knew the fraudulent character of John McLoughlin's title.

But if we give faith to the testimony of Henry Strider, and
253 we have no reason to discredit him, then we have proof direct of his knowledge of the fraud, and of the motive which induced him to buy.

It is, perhaps, not amiss to remark that John McLoughlin, in his affidavit of the 12th May, 1843, not only disclaimed title in himself, but admitted the validity of the claim of Leonard Dyson, as assignee of his father, Edward McLoughlin. This transpired five years before the sale made to the defendant, and we have reason to suppose that he was made acquainted with all the facts therein stated, as the affidavit had been deposited in the register's office at Opelousas, where the defendant obtained information in relation to the claim before making the purchase. Thus we have the declarations in writing of John McLoughlin, which amount to a quit-claim in favor of Dyson; and we see the land in the possession and occupancy of those holding under Dyson at the very time of the date of the sale to the defendant.

The defendant being thus, in legal parlance, a purchaser in bad faith, owes indemnity, and is entitled, in law, to no other
254 claim for his improvements than those stated in the three first sentences of the C. C., art. 500, Gibson *vs.* Vaughn, 12 Arm., 245.

The evidence on the head of damages is very meagre, and the remark applies to the improvements made by the defendant. The defendant has, we can safely say, been in possession of the whole land

since 1853. The land cleared at that period was about 250 acres, and the lowest estimate for rent is $3 per annum per acre. The improvements made by the defendant are valued at $5,250. The quantity of land cleared at the trial of the suit below was about 480 acres.

The plaintiff is, therefore, entitled for rent at the rate of $3 per acre per annum on 250 acres from January 1st, 1854, to the date of the judgment below, April 30th, 1859, $3,833 33; and from that date until possession be delivered to him at the same rate on 480 acres, and it shall be optional with the plaintiff to keep all the improvements on the place by paying therefor $5,250. The free use of the excess of the clearing from January 1st, 1854, to April, 1859, and the cord wood consumed, will more than compensate for the
255 expense of the clearing made. It is for the reasons assigned it is therefore ordered, adjudged, and decreed that the judgment of the court below be avoided and reversed.

It is further ordered and decreed that the plaintiff be, and he is hereby, recognized as the lawful owner of section thirty-four, containing six hundred and twenty-one 23-100 acres of land, in township sixteen, (north,) of range twelve west, in the northwestern land district of the State of Louisiana, and that a writ of possession issue.

It is further ordered and decreed that the plaintiff have judgment against the defendant in the sum of three thousand eight hundred and thirty-three dollars and thirty-three cents, with costs in both courts.

It is further ordered and decreed that the plaintiff have judgment, and the defendant pay unto him at the rate of three dollars per annum per acre on four hundred and eighty acres, from April thirtieth, eighteen hundred and fifty-nine, until possession of the land be delivered as above stated.

And it is further ordered and decreed that the plaintiff shall elect, within thirty days after this judgment shall become final, whether he will keep the improvements erected on the above-described
256 land on paying for the same five thousand two hundred and fifty dollars to the defendant, and on his so electing or making default, execution may issue on this part of the judgment against the plaintiff; but on his refusal to retain the said improvements, the defendant is hereby permitted to remove the same within a reasonable time.

It is finally ordered that the clerk of this court be, as per agreement on file, directed to issue notices of this judgment to the sheriff of the parish of Caddo, for service on the counsel of both parties.

And on the 28th of February, 1861, the following petition for a rehearing was filed, to wit:

Appeal from the eighteenth judicial district court of the parish of Caddo.

ELIJAH CANNON, app't,
vs.
R. WHITE, app'ee. } No. 35.

Appellee, R. White, by counsel, moves the court for a rehearing in this case for the following reasons:

The court, it seems, considers that John McLaughlin obtained from Congress a quit-claim to the land in dispute, by falsely and
257 *and* fraudently attributing to himself the occupation, habitation, and cultivation of his father, Edward McLaughlin, and that the defendant was cognizant of the fraud practiced on the register and receiver.

The court having previously come to the conclusion that the plaintiff's title unaided would have no standing in a court of justice, and that this case viewed "simply as a petitory action, would be against him." For the reasons above stated, it would seem to "decree the patent and the land covered under it to the plaintiff."

Let us first see where the occupation, habitation, and cultivation of the father was.

Claim number 14, Edward McLaughlin, (or his assignee,) Leonard Dyson, claimed to have occupied, inhabited, and cultivated a tract of land, "situated on the waters of Red river, on the southeast side of a cut-off which forms Norris island, bounded on all sides by vacant land;" that said tract of land was occupied, inhabited, and cultivated by the claimant, and those under whom he holds, on and prior to the 22d Febraary, 1819; that said occupation, habitation, and cultivation has been continued by the claimant, and those under whom he
258 holds, since that period to the present time, and that the claimant's improvements on the tract claimed at this time includes about five acres."—(Vide copy of register and receiver's report, dated Nov. 1st, 1824.)

Now the question is: Did John McLaughlin falsely and fraudulently attribute this occupation, habitation, and cultivation to himself?

Let us see where the habitation of Edward McLaughlin and the five acres of the cleared land were.

J. C. Lafitte, one of the plaintiff's witnesses, says: "I knew Edward McLaughlin, and have known him from my childhood. I was frequently at his house, and stayed at one time four months in sight of his house, on the opposite side of the bayou from him. To the best of my recollection, in the years 1817, 1818, and 1819, Edward McLaughlin lived at the junction of the Pascagoula bayou and Praire river, in the fork of the two. It is but a short distance from the junction of these bayous to Red river. He had a log cabin in which he lived, and a little clearing of some four or five acres; and he raised corn, peas, and pumpkins on the land that was cleared.

259 There was an improvement on the bank of Red river, descending, just below the Pascagoula bayou, on which some Pascagoula Indians lived."

We have here the habitation fixed and located definitely, and the map annexed show that it is not on the land in controversy; and this witness, who was "frequently at his house" in 1817, 1818, and 1819, shows that the "four or five acres" cultivated and occupied, were not situated on the right bank of Red river, descending, just below the Pascagoula bayou, because that was in the possession of some Pascagoula Indians.

But is this witness of the plaintiff to be believed?

Louis Lafitte, another witness of the plaintiff, says: "I knew Edward McLaughlin, I think, in the years 1817, 1818, and 1819. He lived at the junction of the Pascagoula bayou and Prarie river, between the two. I was on the place frequently, and saw Edward McLaughlin living there."

Simon De Soto, another witness of the plaintiff, says, about March, 1858: "That in age he is in his fifty-second year. I knew Edward McLaughlin, and have known him since I can recollect. I think
260 he lived in those years (1817, 1818, and 1819) on the Pascagoula bayou. He had a house and a little clearing in the fork of the Pascagoula bayou and Prarie river, and he raised corn and pumpkins at that place. I was frequently at the house of Edw'd McLaughlin."

This testimony clearly establishes the fact, that the habitation, occupation, and cultivation of Edward McLaughlin were all in the fork of the Pascagoula bayou and Prarie river, and not on the land in controversy; and this is proven by plaintiff's witnesses as the condition of things in 1817, 1818, and 1819.

In 1822, Mr. Donovan, defendant's witness, stayed with Edward McLaughlin about three months. "His house was situated on Prairie river, a short distance below the fork. He had a small clearing around his house, growing corn. Edward McLaughlin had no improvements that he ever saw or heard of on the river across the bayou. The Pascagoula had a small clearing near the river, and below Pascagoula, and small huts. All the planting he had in 1822 was around his house. In the fork is Edward McLaughlin's house. The Indian huts were on the bank of Pascagoula, and just below
261 where Pascagoula leaves the river.

Cæsar Wallace, witness for the defendant, says: "In 1816 witness was at the mouth of Pascagoula; there was nothing but some Indian camps." He says afterwards it was the latter part of 1815. "In 1833 or 1834, just in the fork between Pascagoula and Prairie river, there was an improvement which he was told was Edward McLaughlin's; it was abandoned at that time; there were a few acres, six or seven, witness thinks, can't say how much, about the old house in the fork. There was no clearing then over the Pascagoula and on the river, nor any sign of improvement in 1833 or 1834."

Can it, on this testimony, be for a moment doubted that the habitation the five acres cleared, which constituted the occupation and

cultivation sworn to before the register and receiver as then existing in 1824, was the same four or five acres which Lafitte testifies to as being cleared in 1817, 1818, and 1819, and which De Soto says was in the fork of the Bayou Pascagoula and Prarie river at the same dates; that Donovan saw in 1822, and Wallace saw in 1833
262 and 1834? Now what is there to induce the supposition that he cultivated and occupied any other land? Robleau swears that he had two houses and improvements, one on Red river, and the other at the fork; does not swear where he lived, nor does he fix a date to this possession of the improvement on Red river. It could not have been on and prior to 22d February, 1819, as the former witnesses have shown.

According to the weight of testimony, it is beyond the possibility of a doubt, that the only occupation, habitation, and cultivation which Edward McLaughlin had, prior to and on 22d February, 1819, was in the fork of Pascagoula bayou and Prairie river, and not on the land in controversy.

Now when a tract of land is proposed to be recovered on verbal testimony, when three men are to be perjured in what they swore to 26 years ago, a patent annulled or converted to another's use, a good citizen of the State to be deprived of from thirty to sixty thousand dollars' worth of property, to be decreed a participator in a fraudulent scheme, all dependent upon the proof of the fact that Ed-
263 ward McLaughlin occupied, inhabited, and cultivated, (or even did either,) this improvement on the bank of the river on and prior to the 22d of February, 1819, we ask, in the sacred name of justice, is that fact proven? If there is doubt even, who is to remove it? Is it the defendant, fortified with a grant executed in the most solemn form, although only a quit-claim, yet good against every one who has not a better title than the U. S. had when it was made. But the plaintiff has himself proven that the Pascagoula Indians, and not Edward McLaughlin, inhabited and cultivated this land.

In addition to what has been said, it may be stated that Simon De Soto says: "I did not know of any settlement near that of Edward McLaughlin in those years, except some Pascagoula Indians."

It is true that some witnesses swear generally that Edward McLaughlin lived on the land in controversy, and refer to the report to define it. But every witness who fixes his habitation shows that he did not live on it, and no witness swears that he cultivated any portion of it; and yet so voluminous is the testimony in this case, and much of
264 it so vague, and so necessary is it that it should be subjected to a long and laborious examination, that the court has fallen into the grave error of saying: "The evidence is certain that Edward McLaughlin inhabited and cultivated the land in controversy on and prior to the 22d February, 1819."

It is respectfully submitted that a careful examination of the testimony shows most conclusively that he did neither.

Let us now examine the testimony adduced in favor of John McLaughlin's claim, and see where it is located.

1st. It is No. 162, for 640 acres of land "lying on the right bank of Red river, descending, below and contiguous to Pascagoula bayou." The claimant alleges under oath that he settled, occupied, and cultivated the tract claimed on and previous to the 22d February, 1819. Pierre Robleau says, on the 14th of January, 1834, that John McLaughlin did "inhabit and cultivate a tract of land situate and lying on the west bank of Red river, below and contiguous to the Pascagoula bayou, on and prior to the 22d February, 1819; that the improvements were valuable and of a permanent charac-
265 ter."

Charles Myers states under oath, "that the facts and allegations contained in the claimant's notice are true, and that he has known the claimant for more than eighteen years."

Now, Edward McLaughlin, father of John, was a hunter, and not much given to work. (See testimony of C. Wallace.) He had a family, he lived in the fork of Pascagoula and Prairie rivers for several years, and yet he made no improvement, except a log cabin and about five acres of cleared land. Much less improvement would therefore have sufficed for John, who we presume was also a hunter, and a bachelor, as there is no evidence that he had a family.

And that he may have had such settlement, occupation, and cultivation of this land on and prior to the 22d of February, 1819, as would enable these parties to make the above affidavits with truth, at least with as much truth as a great many pre-emption rights are proven up, counsel has but little doubt.

The testimony, it is true, before the commissioners, is not
266 very definite. But one thing is clear and beyond all doubt—it is not proven that they intended to swear to the settlement occupied and claimed by Edward McLaughlin. If John really had no settlement of his own, then the Indian settlement on the bank of the river must clearly come within its description, whilst that of Edward McLaughlin by no means is necessarily included in it, and, as we shall further show, could not be. They only proved that John occupied and cultivated, prior to the 22d of Febr'y, 1819; whereas it is in proof that the cultivation in the fork continued long after that time, and the Indian improvement was abandoned before 1822.—(See testimony of Donovon and Wallace.)

The same Edward McLaughlin's five acres was still in cultivation in 1824. They may have sworn falsely as to the settlement of John on this tract, but they certainly did not attribute to him the settlement, habitation, &c., of his father. Nor did he or they intend that it should interfere with the claim of his father or his vendees, according to a fair inference from the facts. Let it be remembered that at the time these witnesses swore there was no improve-
267 ment, in 1833 and 1834, (see testimony of Wallace,) except at the fork, and no one in possession of a foot of the land in controversy; and further, that nearly a year before these affidavits were made—before the register and receiver, Leonard Dyson, who had, it seems, owned the claim of John's father for nine years—had sold it to Wright, Mahle & Tippett—had sold it as a tract of land "between

the Pascagoula and Prarie bayous." All these parties use the Edward McLaughlin settlement for the purpose of procuring a tract of land between the Pascagoula and Prarie bayous. Did John McLaughlin propose to interfere with them?

The rule established for locating such claims by Congress, required that the improvements should be included. Watts says: "If he was ordered to survey and locate the claim of Ed'wd McLaughlin, in accordance with a copy of the report annexed to the map, marked X, to include the improvements of Edward McLaughlin, so as to include 640 acres, that a survey made in accordance with the rules of surveying, he would have to run the lines on a perpendicular to Pascagoula bayou; if it touched the land of the defendant at all, would be very slight, supposing the improvements of Edward McLaugh-
268 lin to be between bayou Pascagoula and Prairie river, and below their junction.

Every one familiar with the history of the country knows that the land in this region of the country was, in 1834, nearly all vacant. No surveys had been made, as we may fairly infer from the fact that in 1835, in the sales from Tippitt & Mahle to Wright, none are referred to. Both claims could then have been located without interfering with each other.

Admitting, for the sake of argument, that the testimony before the register and receiver was false, what injury did it inflict on Edward McLoughlin or his vendees? And could even Edward McLaughlin or his vendee recover of John McLaughlin a tract of land which he had unfairly obtained from the government, because they had failed to obtain another and different tract, which they ought to have had?

But the subsequent act of the surveyor in locating the claim of John McLaughlin in such manner as to include the improvement made by the Pascagoula Indians, and excluding that of Edward
269 McLaughlin, shows that a fair construction of the claim of John McLaughlin could not, as it never was intended it should, interfere with that of Edward.

The very act of the surveyor shows that it was not the occupation, habitation, &c., of Edward McLaughlin that John had attributed to himself, but an occupation of his own, if the affidavits were true; or, if false, either an occupation that never existed or that of the Pascagoula Indians. Take the whole history of the habitation, occupation, and cultivation of Edw'd McLaughlin, and counsel would respectively ask, did it ever enter into the mind of the surveyor, or had it the slightest influence in locating the claim of John McLaughlin? No; it was a different occupation alleged, whether true or false, that fixed the location.

But admitting again, for the sake of argument, that John McLoughlin did attribute to himself the "habitation," &c., of his father, and that the affidavits made by three different persons before the register and receiver were all perjuries, is it proven, or can it be fairly inferred from the evidence, that White knew it?

270 The court says: "He had full and ample means of knowl-

edge. He knew two years before buying that the occupants, or at least some of the occupants, held the same as the lessees of the plaintiff's immediate vendor." Counsel is unable to find any testimony in the record to establish this fact, except that of Scarborough. He says: "Defendant knew Simmons was in the possession of the land as tenant of Wright; he knew this some two years before the purchase," &c. Now, Wright had sold the Edward McLoughlin land, situated between Pascagoula bayou and Prarie river, to the plaintiff in this suit in 1840.

And the notarial act transferred the possession of this land to Cannon. Suppose Simmons did hold under Wright in 1846, did that even prove Wright's knowledge that this was a possession of the Cannon claim which Wright had sold to him, and of which, by the act of sale, Cannon was legally in possession? If counsel is not totally at fault in what he considers the power of reason and the rules of sound logic, it proves exactly the reverse—that it was not the Cannon claim, but some other that Wright held under.

271 But this is one link in chain of reasoning, it seems, by which he is to conclude; first, that John McLoughlin never occupied, inhabited, and cultivated the land in controversy; that three men had perjured themselves; that the government of the United States had wrongfully granted a patent; more than that, not content to swear falsely, but they have gone further, and attributed to John not only a possession which he had not or did not have, but apply to him that of his father, which "habitation," &c., of his father was not on the land in controversy.

It is admitted that title to the land in controversy is out of the government of the United States; that it has been divested by the patent to John McLaughlin; and as the United States do not complain, the fact that John never had a settlement, (if he never had,) is not the question. "The matter to be determined is, did he attribute to himself the habitation of his father?"

It is not very clear where John did live. One witness says that he lived with his father. If that be so, then he never inhabited the land in controversy; but this witness is not very accurate as to

272 dates, and it is not clear that he refers to the point of time, "on and prior to 22d Feb'y, 1819." But John must have lived somewhere; but as negative evidence that a man did not live in a wilderness country, on a tract of land having an extensive river front, perhaps nine miles, without showing where he did live, is not very satisfactory; more particularly where the witnesses swear some forty years after the fact, it would seem that John may have possibly lived on the land in controversy. Whilst it is proven that Edward did not live on the land by numerous witnesses of the plaintiff, whilst one of them swears to the fact that he never cultivated any portion of it.

But this witness, who counsel supposes knew as much as White about Simmons's possession, doubted Cannon's title. He wants a chance for a pre-emption; that shows the motive which induced him to settle on the land. Disappointed and vexed no doubt when he

hears that the land is already patented and owned by White, on the 6th of April, 1858, swears positively to White's knowledge of the fact in 1846, without stating a single reason why White must
273 have known it. Such testimony can be nothing but an opinion, and without reasons and facts to support it, is worth nothing.

But let us examine the testimony of this witness a little further.

On the 6th of April, 1858, he swears that Wright is still in possession of the land in controversy, and then swears that Nesbitt had put White in possession of a part of the land; that White had got possession of another portion of it, and finally, in answer to the thirteenth interrogatory, he swears that White had got possession of all the land.

The court will give such weight to the testimony of this witness as it deserves.

But admitting that White knew that Simmons claimed to hold under Wright, is it not probable that he knew what Pitt states, "that all the settlers on the land, four or five in number, except Simmons, spoke about getting, and witness believes tried to get, pre-emptions?" Pitt made a settlement on the land for the same purpose, says "there was great excitement about pre-emptions." Sold out his claim in 1846. Nesbitt states the same facts substantially. He says: "Nothing was said about tenants until White exhibited his title or patent
274 in 1848. Was asked to become a tenant, and declined. The settlers tried to get up a purse to employ a lawyer to test both titles, White's and Cannon's."

Now all these settlers, except Simmons, had shown their confidence in being ultimately able to pre-empt by going upon the land and risking their labor and improvements upon it. And is it at all probable that White knew that Simmons occupied a different position from the rest of them; that he held under Wright; that Wright was agent for Cannon, and that the land in controversy would be covered by Edward McLaughlin's claim, which lay "between Pascagoula bayou and Prairie river?"

The court further says: "After the sale he bought out some of the tenants, sued others, and dismissed the actions after he had by that means obtained possession, and, we have no doubt, for the purpose of avoiding the issues of fraud made in the case in which the present plaintiff had intervened."

It is most respectfully submitted that the court errs in its conclusions, as deducible from the evidence.

It is asserted that Simmons is tenant of Wright. Certainly
275 no other tenancy is proven, except Scarborough, who does not say when he became a tenant, or certainly not when a contract was made. Scarborough, (on whose testimony the court seem to rely) says: "He (defendant) told Captain Wright, in my hearing, that he (White) would lease the land from Wright, or his principal, Cannon, to pay rent if he lost the suit," &c. Wright was present in Caddo when the lease was made by him to White of the land occupied by Simmons. Wright was also in the parish when White took possession pursuant to that lease.

White then, if this witness is to be believed, went into possession of the Simmons settlement with the consent of Wright, acting for "his principal, Cannon," as the witness expresses it.

What motive, then, could White have had in paying Simmons for his improvements, after he had got possession, except the honorable one of not desiring to enrich himself by the labor of another? The evidence already referred to shows beyond doubt that the settlers, all except Simmons, expected to pre-empt. Nesbitt swears to it; denies being a tenant. Neither Wright or Cannon had ever cleared or cultivated any land. Each settler had made his own clear-
276 ing and improvements. No rent had ever been paid or asked for. No settler asked permission of Cannon, or Wright, or Simmons to settle on the land, and neither of these parties made any objection to the settlements.

Does the evidence, then, sustain the position that these settlers were "tenants?" No; they "became tenants," (as Nesbitt says he was invited to do so,) no doubt under the advice of counsel, after White had brought his suits, with a view of assisting in the defeat of his title.

But Mr. White relied on his title and brought his petitory action. If the settlers were in good faith, and as counsel thinks the decisions of this tribunal then stood, Mr. White would have been bound to pay them for their improvements.

These settlers had made their improvements with a view to pre-emption. They were unable to secure their lands, as the title had passed from the government. Why could not Mr. White be permitted to pay the men who had performed the labor? What evidence is there that he had any other but honorable motives in doing
277 so? But how can these facts, which occurred after the purchase, so natural in themselves, so consistent and reconcilable with honor and good faith, prove that Mr. White knew in 1848 that John McLaughlin not only had no occupation, habitation, and cultivation on which to base his claim, but had falsely and fraudulently attributed to himself that of his father, (which was off his land,) to secure his patent.

Again, the court says: "The price purported to have been given (by White for the land) was not serious." The consideration stated in the deed to be three thousand dollars. Blount says land in the wood at the time White bought was worth four or five dollars per acre. Most of this woodland, and White no doubt expected to pay, as he did afterwards pay, for the improvements to the parties who had made them.

Not a title of evidence was admitted by the court below to show that this price was not paid. It is true there are certain alleged declarations of John McLaughlin, made out of the presence of White, (if made at all,) and evidently after the sale, embodied in bill of exceptions "B," which might rise a suspicion that this whole
278 price was not paid. And another alleged conversation of John McLaughlin, in which appears in what the court styles "rejected testimony," (the relation of which to the record will be hereafter noticed.)

But this testimony being ruled out of the court below, defendant had no opportunity of rebutting.

The court further says: "The surrounding circumstances, the acts, actions, and declarations of the parties, the rumors which were then rife in the community, all tend to the conclusion that the defendant well knew the fraudulent character of John McLaughlin's title."

What are the surrounding circumstances, as deducible from the oral evidence, as admitted by the court below?

The first witness, Mrs. Mary B. Aitken, proves nothing material, except that Wright claimed the land where Simmons settled, and that Simmons professed to hold under him, and this, although she had lived twenty-three years in the neighborhood of the land in controversy. Nothing whatever going to show, by the remotest inference, that White knew, or even had grounds to suspicion, that John
279 McLaughlin had falsely attributed to himself his father's habitation, &c. Mrs. Bates, though like Mrs. A., questioned on the subject, could prove nothing more than Mrs. A. did.

Now, here, two witnesses who had lived for a long time in the neighborhood selected by plaintiff; knew both Wright and White, and yet knew nothing material. Scarborough's testimony has already been referred to and commented on; he proves no fact going to show that White could have a knowledge of the facts referred to by the court as invalidating his title, except it be that Wright claimed to have bought from Dyson. Even that is not shown to have been known to White.

Pitts and Nesbitt, so far from showing White's information by their testimony as to what occurred, would certainly have created the belief in his mind that the land would ultimately be subject to pre-emption.

Hall, it is true, says that John McLaughlin told him he had a title, but he did not know how he got it. It is not attempted to be shown that White knew anything of this conversation. He further says, that White said he had examined into John McLaughlin's title to the land. But not a hint was thrown out by *by* Hall that there was
280 any fraud about it. What was the title that White examined? Does living on the land constitute the title, or is it the patent or deed under which the owner professes to hold? That, no doubt, Mr. White by himself or through counsel had examined.

If the plaintiff in this suit had exercised the same diligence and prudence, he certainly never would have made the purchase he did in 1840. Not a single fact does Marye, Charles Rombin, Neville state tending in the slightest to prove knowledge, or even a ground for suspicion, on the part of White. It is true that Flores, Pierre, Robleau, Lestin, Rombin, Simon De Soto, J. C. Lafitte, and Louis Lafitte prove a residence of Edw'd McLaughlin, not on the land, but in the neighborhood of it, and that John did not live on it, though one of the witnesses says that he lived with his father. Some of them swear to the bad character of Myers and the good character of Robleau.

These witnesses lived in a different parish from White, and not in the one where the land is situated; and it is not shown that White

had the slightest intimation of the facts they swore to, or that White had ever seen a single one of them.

281 W. M. Donovan, H. J. G. Battle, and J. G. McWilliams, were sworn only to prove the death of witness Strider. Franklin proves no single circumstance going to show fraud, or knowledge of fraud, on the part of White. This completes the list of witnesses sworn by the plaintiff, and whose testimony was admitted by the court below. It is most respectfully submitted that not a single fact is proven—not a single surrounding circumstance brought to the knowledge of White, or which it may be fairly inferred that he knew, that could have a suspicion in his mind of the perjury (if indeed it be a perjury) of these three persons, and that John McLaughlin had falsely attributed to himself the "habitation," &c., of his father; that the register and receiver were grossly imposed on, or that they had forged the record, or that three other persons had personated these men and perjured themselves. It seems to counsel in all candor that these are facts not to be lightly presumed.

The court must reach the conclusion that White knew the facts referred to from other evidence than that admitted by the court below, as it is clear that this knowledge could not be derived

282 from the record evidence which will be noticed hereafter.

Counsel has carefully examined the "rejected testimony," and can find nothing therein which can be classed with "surrounding circumstances," which adds anything to the oral evidence already commented on.

The several witnesses, Strider, McCollom, Poissot, and Norris, (with the exception of certain declarations hereafter to be noticed,) merely prove the general fact of the residence of Edward McLaughlin on Pascagoula, and that John did not reside or have a settlement there.

There is nothing by way of bill of exceptions, or otherwise, to show that the testimony of Robleau in the "rejected testimony" was ever offered in the court below. It is therefore presumed it was not considered by this court. But even if it was, it does not differ from the general tenor of what was said by the other witnesses.

It is not shown that White knew any of the facts about which they testify, besides they live in a different parish from White. Such are the surrounding circumstances, acts, and actions of the parties, as disclosed by the oral testimony.

Let us see what are their declarations. White told Hall he

283 had examined into John McLaughlin's title. Scarborough says, "he (White) told me that he bought the land from John McLaughlin, and that Simmons was going to give him possession. He told Captain Wright in my hearing, that he (White) would lease the land from Wright on condition of paying rent, should the suit then pending be decided in favor of Wright, or his principal Cannon, and of being released from payment of rent, should the suit, endin favor of White."

These are all the declarations of White admitted in evidence in the court below. There is no declaration of John McLaughlin, ex-

cept his statement to Hall, that he never lived on the land of White, and that his father had lived in that neighborhood; attributed his having a claim to that circumstance; did not know that he had any claim. John McLaughlin had proposed to sell the same land to witness, and these declarations grew out of it. "He told witness he had a right or title, but he did not know how he got it. It was unexpected to him; he accounted for it by his father having lived there. He told witness he could or would sell to White, if
284 he did not buy." Cannon seems to have made no declarations.

There is not in these declarations a scintilla of proof of White's having known a single fact that could even lead him to suspicion the existence of the facts necessary for him to know in order to vitiate his title according to the decree of the court.

In the "rejected testimony" we find the deposition of Henry Strider, as follows:

"Some time in August or September, 1848, Mr. R. White came to Mr. McMullen's house, and they had a long conversation relative to John McLaughlin's claim. McMullen asked White why he bought a claim that was fraudulent. He, White, answered that his counsel, three in number, at the land office, told him that the claim being fraudulent, made no difference; that the government had given a patent, consequently if White lost the land the government would be bound to remunerate him, which would be better for him than the land. From the whole conversation that I heard I could draw no other inference than that of Mr. White being aware of the claim of John McLaughlin being fraudulent."

285 He, the said White, further said that he had fully inquired into the fraud, and was told it would make no difference whether fraudulent or not.

The answers were in response to the following interrogatories:

"Int. 2d. Have you or have you not ever heard the plaintiff, Reuben White, say anything with reference to John McLaughlin's claim, which is in controversy in this suit? and if yea, what did he say, and when was it, and who was present, and where?

"Int. 3. Please state anything else you know of interest to the parties to this suit."

Again, in the "rejected testimony," Norris says: "I had a conversation with Reuben White on the subject; he told me that if it had been got fraudulently, that he did not have it done; that if there was anything unclear about it, he had nothing to do with it, only buying John McLaughlin's claim."

Mr. Norris in his "rejected testimony" also details a conversation which occurred between himself and John McLaughlin, in which he says McLaughlin said he told White he had no title to the land, but that it belonged to his father, who had sold it, &c.; that if he
286 had, it had been got fraudulently and unknown to him, &c.; also certain declarations of McLaughlin to McCollom of a similar character. In bills of exception marked B the following statement of J. C. Lafitte was rejected by the court below: He told me

that Reuben White came to him to buy the land described in the report annexed to the interrogatories on his (John McLaughlin's) Rio Hondo claim, and that he told White that the land did not belong to him, but belonged to his father, Edward McLaughlin. He said further that he told White that he did not want to sell it, because it did not belong to him, but that White was after him to get the land; that he, John McLaughlin, being a poor man, concluded to sell it, and get something, as he did not risk anything, as White had said he was willing to buy the land at his own risk. John McLaughlin got a horse, saddle, and bridle, and I don't know what else.

Let us examine first the testimony of Strider.

It was taken under commission. The defendant had no opportunity of hearing the answers of the witness, to examine him as to
287 what else was said. There was a long conversation, for all of which he was asked; yet only a few expressions are given. Is it not singular that "fraudulent," as characteristic of the claim, is all that is remembered? What were the facts constituting the "fraud?" Were they not alluded to in this long conversation? The facts are not worthy of notice. Perhaps Mr. White denied all knowledge of the facts; the word "fraud" is conveniently used to be applied to any state of facts that they might be able to prove. But is it for a moment to be believed that any three counsel of the State of Louisiana would have advised that the government of the United States would be compelled to warrant title to land covered by a patent, when warranty was expressly excluded by the act of confirmation as well as the patent, or that such a claim on the government would be better than the land, worth at that time four or five dollars per acre?

It bears the stamp of falsehood on its face. What motive could have induced Mr. White to state such a falsehood to his own prejudice? Witness was at the house of the defendant, and he conveniently states his "inferences" when asked to state anything
288 "of interest" that he could. No one was present but himself and the parties to the suit, and he knew that he could not be contradicted. The land was bought by White 22d June, 1848, and this conversation is said to have occurred August or September afterwards; and even this witness does not dare to swear that he even inferred that White knew anything of "the fraud," as he calls it, prior to his purchase, much less that he knew anything of the facts which are the evidence of the fraud.

The only evidence, then, which goes to show that White knew, first, that John McLaughlin had no right to a Rio Hondo claim, and that he had fraudulently used his father's "habitation," &c., to establish one, prior to his purchase, are the declaratons of John McLaughlin, made after the sale, and that not on oath and out of the presence of White, as sworn to by Norris, Lafitte, and McCollom. Counsel would ask respectfully if such evidence can annul a notarial act, a patent from the United States government, and, above all, the solemn oath of John McLaughlin, supported by that of Myers and

Robleau, and all the acts of the general government based
289 thereon.

We will now examine the rumors which were rife in the community, the evidence which was rejected by the court below. Nisbett says: "The claim of Wright is a matter of notoriety, was situated below the fork of Pascagoula and Prairie river, and between the two." He says: "Before Reuben White purchased the land from McLaughlin, the general rumor was that Wright had a Rio Hondo claim that would be established there."

Among the interrogatories addressed to Mrs. Adkins and Mrs. McMullen (Mrs. Bates) occurs the following: "How long have you known Reuben White? and be pleased to state what you have heard him say concerning 'the fraud' practiced in proving up title to said tract of land in the name of John McLaughlin; and be pleased to state, as near as you can, the time when you heard him speak of the subject; and be pleased to state further, whether said fraud was notorious in said neighborhood of the defendant, Reuben White."

Now, Strider had already been sworn. He had been barren in facts constituting fraud, but strong on "fraud" itself. "The fraud" is, therefore, taken for granted in the question, whilst the
290 facts constituting it are treated with marked contempt, as unworthy of notice, and the ladies are most courteously approached, (one of them the former wife of one of the settlers, and original defendants.)—See Pitts's testimony and answer of Dempsey McMullen.)

Mrs. Aitkens says: "Witness has been acquainted with Reuben White for ten or twelve years; witness never heard Mr. White say anything about fraud practiced in proving title to the tract of land, nor anything in connection with John McLaughlin; witness has heard from rumor, but has no personal knowledge of the matter, that Mr. White was making efforts to establish a valid claim for himself from false premises."

Mrs. McMullen says: "Witness says she has been acquainted with the defendant, Reuben White, about ten years; witness says that she never heard the defendant, Reuben White, speak of any fraud concerning the said land, nor even heard him speak of McLaughlin, nor call his name; witness says she heard it talked and spoken of that the defendant, Reuben White, was a trying to establish a fraudulent claim on the land that was claimed by Captain Wright."

291 It was thought prudent not to say anything in the interrogatories about dates in regard to these reports, and the witnesses prudently fix none. It is quite likely that Mr. White was a trying to establish his claim when he sued her husband for a part of the land, and it is quite likely, from the answer he filed, that she should hear something about Mr. White's claim being fraudulent.

But a question is put to Scarborough (another settler and defendant) that ought to have brought out some facts, something or other, to have shown White's knowledge of the falsity of these affidavits, and of their meaning Edw'd McLaughlin's "habitation," &c., when they swore to John's. Int. 13. "Have you any reason to believe that

the defendant, Reuben White, was fully aware of 'the fraud' that had been practiced in proving up the claim of John McLaughlin to the land claimed by plaintiff, or his vendor, Isaac Wright, before or at the time he purchased the same from John McLaughlin? If so, be pleased to state the grounds or reasons for your belief."

The witness jumps the first part of the interrogatory. He does not dare to say that he has any such reason, either before or at the time of sale, but he gives us the following:

292 "At the time of the sale by McLaughlin to White there was a report current in the parish generally that McLaughlin had no claim to the land in controversy. The neighbors in the vicinity of the land told White, after the sale, that, in their opinion, McLaughlin had no shadow of title."

Well, the least that he said is, the neighbors were very much mistaken. But why had he not a title? This is a question none of the witnesses have ever said one word about, by whom it is attempted to prove White's knowledge of the fraud.

Those facts have never got into the very convenient form of a report, except it is that John is made to say, in one of these conversations, that he never lived on the land, and did not know how he came to own it. But, then, that would be equally fatal to the plaintiff, and no doubt Edward McLaughlin would be just as much astonished as John is represented to be, if he could now be informed that he was the owner by "habitation," &c., of a tract of land that he had never lived on.

Such are the rumors. Now, is it not evident that all these rumors were started by the parties, and occurred after the purchase,

293 except those stated by Nisbett, one of which certainly neutralizes the other, so far as bringing knowledge of "the fraud" to defendant is concerned?

Now, what Rio Hondo claim Wright had we are left to guess, as he had the Edward McLaughlin claim in 1840.

Let it be remembered how many persons were trying to get preemptions on this land; that "there was great excitement about preemptions." White bought 22d June, 1848, and the suits against the settlers were filed the 5th October following. When it was announced that Mr. White had discovered a patent for the land—had bought the land—we may well imagine that it fell like a bombshell among these settlers, their relations, and friends. Counsel would respectfully suggest that a careful examination of the record will be convincing, that here commences "the surrounding circumstances, the acts, actions, declarations of the parties, and the rumors," so far as all these tend in the slightest degree to throw doubt on the good faith of the defendant. The envy of those desiring to speculate is generally excited against those more successful than themselves, particularly when they consider themselves thwarted thereby; and

294 with what alacrity a willing witness can swear to his inference from a conversation, or the existence of a rumor.

These parties, thoroughly alarmed by the title of White, first conclude to get up a purse to employ a lawyer to defeat both the titles

of Cannon and White; afterwards conclude it was safer to unite with Cannon, and together combat against his title as a common and dangerous enemy. Nisbett was invited into the tenancy arrangement, but declined.

With this host of defendants arrayed against White we soon have "conversations," "declarations," and "rumors" to suit the case; but all, unhappily for plaintiff, clearly "ex post facto."

And now the excitement about pre-emptions having assumed a more virulent form in reference to White's purchase, this illiterate man, John McLaughlin, is provoked into conversations, and, doubtless, intimidated into saying he had told White he had no title; that he did not want to sell to him. Why was he so anxious to sell to Hall? His whole conduct, in fact, proves that he made those declarations under the taunts of his former associates, and to appease their anger, if he made them at all.

295 A calm and dispassionate view of this case, it seems to counsel, affords the following as a fair statement of the surrounding circumstances, the acts, actions, and declarations of the parties and the rumors, &c.

1. White removed from Alabama to the State of Louisiana in 1836.

In the rejected testimony Robin Casey says: "Edward McLaughlin settled on the south side of Pascagoula bayou some time in 1816 or 1817, and he remained there some ten or more years. In 1833 and 1834 there was no one living on the land. The next settler on the land is Wright in 1839 or 1840; he remained one year. Wright cultivated no land. Dempsey McMullen or Bates makes a settlement on it in 1845. Cullen McMullen at same time. Scarborough, 1846. Nisbett in 1847. Ford was also in possession of a part of it; and Pitts had been. Simmons had succeeded Wright. All these persons, except Simmons, were desirous, and were trying to get pre-emptions. No objection was made by any one to all this. True, Wright claimed to have a Rio Hondo claim growing out of this settlement that he expected some day to have located; of course the settlers thought

296 but little of it, as they paid no attention to it.

John McLaughlin had told Blount that he once had a Rio Hondo claim below Pascagoula, and had settled on it at the mouth, and wished to employ a lawyer to sue for it; this was in 1844 or 1845.

Wright himself did not pretend to know where his claim would be located. In the record, which is evidently carelessly made up, there must be the omission of the word "not," on p. 28. Nesbitt, by trying to pre-empt. Wright tells him he did wrong in giving possession to White, inasmuch as he believed the claim "did reach" to the land occupied by witness; did not reach, would furnish a reason for his staying with a view to pre-empt; did reach would furnish a reason for his leaving, unless Wright believed in the existence of two independent claims; that of John and Edward, and that his, when located would cover Nesbitt's possessions, and therefore could not be interfered with by White. He also tells Blount that it is doubtful if it will include the Bates improvement.

Now, even if White knew that Simmons held under Wright, of which there is certainly not sufficient evidence, is it possible
297 for him, on these surrounding circumstances, to know anything about the title to the land? Well, he is desirous of buying it; certainly he had a right to do it, if he can find out who owns it. If Strider is to be believed, he did a wise thing in the outset, he employed counsel at the land office.

Now, his counsel, not finding the land subject to entry, and seeing it is in the territory where "Rio Hondo" claims exist, would very naturally look at the records in that connection. There both these claims would be found, and the following legislation bearing on them, to wit, in acts of Congress, as found in vol. 3, Statutes at Large, p. 757: "The register and receiver are required to receive and record all evidence of claim founded on occupation, habitation, and cultivation, designating particularly the time and manner in which each tract was occupied, inhabited, or cultivated prior to and on the 22d February, 1819, and the continuance thereof subsequent to that time, with the extent of the improvements on each tract."

"Shall transmit to the Secretary, &c., a complete record of all claims, and the evidence appertaining to each claim, and shall also make out an abstract containing the whole number of claims."
298 The third class shall consist of claims founded on habitation, occupation, or cultivation previously to the 22d February, 1819, and which, in their opinion, ought to be confirmed; provided that nothing contained in this act shall be considered a pledge on the part of Congress to confirm any claim thus reported. And in 6 vol., United States Statutes at Large, p. 383, will be found the following: "That the claims to lands founded on habitation, &c., reported for confirmation by the register and receiver of the southwestern district of Louisiana in their report, dated November 1st, 1824, be, and the same are hereby, confirmed, except claim No. —, and the claims of Leonard Dyson, numbers fourteen and eighteen, which claims are suspended until it is ascertained whether they are situated within the limits of the lands claimed by the Caddo Indians."

"That the confirmations made by this act shall not be construed to extend further than to a relinquishment of title on the part of the United States, and the claims hereby confirmed shall be located under the direction of the register and receiver of the proper land
299 office, in conformity with the legal sub-divisions of the public surveys so far practicable, and shall include the improvements of the claimants respectively."

This is all the legislation which is to be found affecting claim number fourteen, of Leonard Dyson, assignee of Edward McLoughlin, and it is therefore evident that neither Leonard Dyson or his vendees have any title under this "Rio Hondo claim," as the court has decided.

In regard to the "Rio Hondo claim" of John McLoughlin, No. 162, we find in 491, 492, and 493 Statutes at Large, vol. 5, the following legislation:

"*Be it enacted*, That the claims to land within the district south of the Red river, being numbers , 162 of the report of the

register and receiver of the land office, at Opelousas, dated 30th May and 6th June, 1840, be, and the same are hereby, confirmed: *Provided*, That the confirmations made, &c., shall only operate as a relinquishment of the right of the United States, shall not affect the rights of third persons, or preclude a judicial decision between private claimants for the same land, and on the presentation to the Commissioner of the General Land Office of a plat of survey duly approved by the surveyor general of Louisiana, the claimant shall be
300 entitled to a patent."

Approved July 6th, 1842.

Then follows the order of survey, the survey returned and approved, and the patent dated 20th September, 1844, as found on 96 of the record, issued pursuant to the provisions of the above statute.

The recorder's office shows no transfer from John McLoughlin.

The examination of the title, referred to by Mr. Hall, is now complete, and if Mr. Strider is right in Mr. White having three counsel at the land office, it is not strange that they advised that the title of John McLoughlin was good against the United States; that no preemption claims could hold against it, and good against the claim of title by the assignees or vendors of Edward McLoughlin. It is true that plaintiff has introduced in evidence an act of sale from Leonard Dyson to Wright, Mahle, and Tippett for the sum of four hundred dollars, dated 4th May, 1833, for all the said Dyson's "right, title, and interest in and unto a certain tract or parcel of land situate and being in the parish of Natchitoches, on the right bank of Red river, containing six hundred and forty acres between the Pascagoula and Prairi bayous." In a sale from Tippet to right of his one-
301 third interest without warranty, the same description is referred to, and the sale is dated the 13th May, 1835. Mahle sells to Wright without warranty and by the same description on the 28th June, 1840, Wright sell to Cannon a certain tract or parcell of land situated in the parish of Caddo. State of Louisiana, on the south side of Red river, between Prairie river and Pascagoula bayou, being in township 15, range 12 west, being the same land sold by Dyson, &c.

All the titles put the land between the bayous; the improvement was there; it was in township 15; the fork of the bayou is south of township 16. No part of John McLaughlin's land is in township 15, or between those bayous. And yet the court falls into the error of saying "the misdescription of the land as to the boundaries in all the transfers from Leonard Dyson to the plaintiff is of no consequence," when it is respectfully submitted every fact shows beyond doubt that the parties used the very language to express their intentions, that they meant and intended the very land they described.

And the only chance or ground, it is respectfully submitted, which the record furnishes for calling it a misdescription, is the
302 amended petition of plaintiff, signed by his counsel and sworn by nobody. How then could Mr. White even suspicion that the claims of Edward could conflict with the lands of John, much

less conclude that because the assignees of Edward have lost his, therefore they must have John's land? It has been shown that there was no sufficient oral evidence to show that Mr. White could even surmise that the title of John McLaughlin, when he had discovered it, would conflict in its calls with the claim of Edward McLoughlin; and it is now seen that all the record evidence—that which is put of record by the assignees of Edward McLaughlin themselves—shows conclusively that there can be no material conflict. Watts, the surveyor, swears that there would not be, and yet on this showing Mr. White is required to believe that all that has been done by and in the name of John McLaughlin is to enure to the benefit of the assignes of Edward McLaughlin.

But the court further says that "John McLaughlin in his affidavit of the 12 May, 1843, not only disclaimed title in himself, but admitted the validity of the claim of Leonard Dyson, as assignee of his father, Edward McLaughlin.

303 This transpired five years before the sale made to the defendant, and we have reason to suppose that he was made acquainted with all the facts therein stated, as the affidavit had been deposited in the register's office at Opelousas, where the defendant obtained information in relation to the claim before making the purchase.

In the "rejected testimony," McCollom, witness for plaintiff, states that this affidavit was handed to the witness by Captain Wright; "witness then deposited it in the land office at Opelousas." Witness states that last summer, 1849, witness called at that land office to get this affidavit, and was answered by the register that it was not to be found in his office; that it was either lost or taken away, as he had made a thorough examination. and it could not be found. This is all the evidence about depositing this paper in the land office.

Now, counsel would most respectfully ask, what reasonable probability is there that White should know the contents of this paper, when the plaintiff's witness, who took the trouble to carry it to the land office, and to go back after it, could not find it? an affida-

304 vit made at the instance of Wright, and actually produced by plaintiff on the trial of this cause, when it is not shown that White had never heard the paper alluded to before.

The defendant, with all due deference, can but feel that the court has done him great injustice in supposing that he was made acquainted with the facts contained in that affidavit, so important in this case, on such slight testimony. He would respectfully observe, too, that the testimony referred to being rejected by the court below, he has had no opportunity of impeaching the veracity of the witness, or of replying to or rebutting the testimony, and of having these questions examined in the presence of, and determined by a jury.

But if this affidavit has the effect of a quitclaim and relinquishment of title, what excuse has the plaintiff or his vendor, Wright, for not putting it of record in the recorder's office of the parish? Why was it that all the conveyances calculated to mislead Wright,

and to make him believe that John McLaughlin's land had a different location from that expected to be obtained for the Edward McLaughlin claim, were put of record, and yet this paper, so important in tracing chain of title, was not put of record, neither the original nor a copy. Must the law be so administered to favor the negligent?

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Look at this whole transaction. Wright procures from McLaughlin the affidavit, which is to have the effect of a quitclaim. He does not record it as a relinquishment of title should be. Five years afterwards, McLaughlin sells the land to White, and afterwards makes verbal declarations prejudicial to White, and favorable to Wright, or his vendee, Cannon; and on the trial this affidavit is produced, for the first time brought to White's notice, and by that affidavit and verbal declarations of John McLaughlin, made out of his presence, and after the sale, White is to lose his land, though holding by as clear a chain of written title as can possibly be produced.

With all due deference, counsel is compelled to come to the conclusion that the court has taken an incorrect view of the surrounding circumstances of this case.

The court, it would seem, came to the conclusion that Mr. White's attention must have been drawn, prior to his purchase, of the fact of whether John McLaughlin was one of those who were entitled to the provision of these Rio Hondo acts of Congress. It seems to counsel that never was or could be a question of inquiry by Mr. White. The question with White was, who owned the land, and from whom could he buy it and get a title? He had the land offices searched, and he found a perfect title in John McLaughlin. A large majority, so far, I doubt, as White knew, all the settlers desired and expected to pre-empt. White discovered that that could not be done, as title had passed from the government.

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It seems to counsel that no one, under the circumstances, would have hesitated about buying.

For the reasons stated the appellee, R. White, asks the court to grant a rehearing in this case, so that the court may correct the error which appellee believes exists in the judgment, and that the verdict of the jury and the judgment of the court below may be affirmed.

But in the opinion of the appellee, at all events there is error in the judgment in this. The court has admitted before it in evidence the entire testimony of four witnesses, and a considerable portion of the testimony of numerous other witnesses, not admitted in the court below. If the court was of opinion that there was error in the verdict of the jury and the judgment of the court below, then the cause should have been remanded with instructions.

307

As by the course which the court has taken in finally deciding the case, he is deprived of the right of impeaching the character and standing of these four witnesses, and of rebutting and replying to all the testimony admitted in this court which was rejected in the court below; and further, appellee is deprived of his right to have all these

matters passed upon by a jury—so appropriate a tribunal for such questions.

The court will also perceive that the cross-examination of Mahle ceased as soon as, in the opinion of the court below, he disclosed an interest. Defendant had not therefore an opportunity fully to cross-examine him.

The court will perceive by the record that one of the counsel in this cause was counsel for Mr. White at an early stage of these proceedings, as appears in the suits against McMullen and others. And if the testimony of Mr. Strider had been admitted in the court below, how easy it would have been to have shown what the counsel, three
308 *three* in number, did advise Mr. White, and what were the facts which their investigations at the land office disclosed; and further, what an important bearing the testimony which could thus be so easily obtained would have upon the testimony of McCollom, also rejected by the court below, but admitted and referred to by this court in its opinion.

As an instance of this kind of rebutting testimony, which can be adduced in such cases, counsel may be permitted to refer to the case of Armstrong *vs.* White, 10 annual reports, page 608, in which the court says: "The statement of the Hon. J. G. Campbell shows that the defendant, White, previous to his purchase of the land in controversy, applied to him to ascertain by examination of the records of the late parish judge's office, and such other records as might then be in the custody of the recorder of the parish of Natchitoches, in whom the McLaughlin title was; that he made a thorough search of the office, and could find no title out of McLaughlin, and so advised White; that White afterwards visited Natchitoches in person, when a renewed search was made by the recorder and himself in presence of White, but with no better success; that White
309 upon his return purchased from McLaughlin; that owing to some defect in the description of the land in the first deed, another was executed by McLaughlin to White, a copy of which being forwarded to the land office, the patent was thereupon forwarded to White, and that it is to his knowledge, White exercised great diligence, and was at considerable trouble and costs in investigating the title before making the purchase, his chief object being to ascertain whether the title remained in McLaughlin." Again, the court says: "We will therefore consider the rejected testimony 'which came up with the record,' and it is respectfully submitted that the opinion shows, that it was from that consideration mainly that the court concludes that the defendant is not a purchaser in good faith."

Defendant and appellee therefore asks that a rehearing be granted, and that the verdict of the jury be affirmed, or that the cause be remanded, in order that he may rebut and contradict the evidence, so that justice may be done him in property and character.

Defendant would further respectfully suggest that there is error in the judgment in this; that the court did not award him
310 judgment for the value of the land claimed by him, and an absolute judgment for the value of the buildings erected by

him. If the court relies upon the testimony of Scarborough, as it seems to do, he says White went into possession of the land, as far as plaintiff could give him possession, with plaintiff's assent. He therefore did not possess in bad faith.

Counsel is of opinion that the court erred in not considering and passing upon defendant's bills of exception, and asks a reconsideration of that point, as he finds no reported case in which a reason is given for the practice alluded to; and counsel would respectfully ask a reconsideration of the questions involved in the rulings of the court below, to which defendant excepted, for reasons and arguments stated in the briefs already on file.

Counsel are further of opinion that the court errs in supposing that the doctrine of the cases of Kittridge *vs.* Breaud, 4 Rob., 79, and Knox *vs.* Pulliam, 14, A., 123; Lytle *vs.* State of Arkansas, 22 How.. 202, and the cases therein cited are applicable to this case, or that the doctrines therein announced should be extended to this case, for the reasons stated in the briefs already on file, and asks a
311 hearing, that this opinion may be reconsidered.

Counsel also suggests the following reasons why a rehearing should be granted.

On page 121 of the record, we find the following certificate:

STATE OF LOUISIANA, *Parish of Caddo:*

I, Newton E. Wright, clerk of the eighteenth judicial district court in and for the said parish and State, do hereby certify the foregoing one hundred and twenty-one pages, numbered from one to one hundred and twenty-one, inclusive, contain a true, correct, and faithful transcript of all the proceedings and evidence adduced, and documents filed, together with five maps attached to the transcript, in the suit wherein Elijah Cannon is plaintiff and Reuben White is defendant, numbered on the docket of said court, 5,186, on file and of record in my office.

Given under my hand and seal of office, this 11th June, 1859.

N. E. WRIGHT.

Appended is the seal of the court.

On page 104, we find a bill of exceptions filed by plaintiff, excepting to the refusal of the court below to allow the depositions of Henry Strider to be filed in evidence, and said depositions are neither
312 embodied in the bill of exceptions or made a part of it, are not attached to it, and are not to be found in the record, as covered and concluded in the above certificate.

The same is true in regard to a bill of exceptions to the refusal of the court to admit the depositions of N. A. Norris, page 106, of J. O. Poissot, page 107, of John McCollom, page 110, and of Robin Casey, page 111.

Counsel finds among the papers a transcript in which the depositions of certain parties, corresponding in names to these appear, together with the depositions of another witness not referred to in any bill of exceptions.

To which is appended the following certificate:

STATE OF LOUISIANA, *Parish of Caddo:*

I. N. E. Wright, clerk of the district court for said parish and State, do hereby certify that the foregoing pages, from 1 to 25, contain a true and correct transcript of rejected testimony, in the case wherein Cannon is plaintiff and White defendant, No. , on the docket of this court, on file and of record in my office.

Given under my hand and seal official, at Shreveport, this July 6th, 1859.

N. E. WRIGHT, *Clerk.*

Attached is the seal of the court.

313 The number of the suit is not given in this certificate to show that it was the same. Mr. Landrum was not present at the trial in this court, and can only learn from the record, and the counsel present, what occurred. The record furnishes no evidence of any consent to this addition of the record. The effect of the "rejected testimony," if to be admitted, is not argued in his collegue's briefs. Mr. Landrum had no idea that it was considered before the court. Appended is the statement of Mr. George Williamson as to his understanding of the matter. Counsel is informed by Mr. Hodge, (who is now absent from the city,) that he ordered a transcript from the court below in order to prepare his brief, in which this "rejected testimony" is not included; that he examined the record soon after it was filed in order that he might ascertain its correctness; that when he came to the first certificate, he ceased the examination, supposing that what remained, besides the maps, was an index, and never knew that this "rejected testimony" was in the record until long afterwards.

314 Mr. Hodge was the only counsel who had taken an active part on the trial below on the part of White, except Mr. Landrum, and was the proper person to examine the transcript. Mr. Hodge will be in the city, and in due time will file his argument and statements in this behalf.

In this view of the case it seems that Mr. White has not had an opportunity of having the effect that the "rejected testimony" ought to have, even argued before this tribunal.

For all these reasons defendant and appellee most respectfully prays that your honors do grant a rehearing in this cause, and for all necessary, general, and special orders in the premises.

LANDRUM & WILLIAMSON,
Attorneys for Defendant & Appellee.

NEW ORLEANS, *February 26th*, 1861.

The undersigned, one of the counsel in the case of E. Cannon *vs.* R. White, No. 7,019, before the supreme court, begs leave to say that he did not consider the transcript marked "rejected testimony" a part of the record in said case, and that there was no verbal or written agreement between himself and the counsel for the plaintiff by which said "rejected testimony" might be considered as part of the record. The said transcript was filed without my consent.

GEORGE WILLIAMSON.

315 Supreme court of the State of Louisiana.

Supplemental brief of appellee on the petition for a rehearing.

No. 35. Filed March 14th, 1861.

J. A. CHARBOUNET, *D'y Cl'k.*

ELIJAH CANNON
vs.
R. WHITE.

The undersigned, one of the counsel for the defendant in the case mentioned above, desires to submit a few reasons for the consideration of the court upon the petition for a rehearing.

The first question which naturally presents itself in the case was whether the act of Congress of the 24th May, 1828, confirmed the claim under which the plaintiff asserted title?

In determining this important question the court uses the following emphatic language:

"We cannot, however, give to the act of May, 1828, the construction which the plaintiff places on it, for we do not understand the words of the act to say or mean that the claim is confirmed subject to a certain contingency, to wit: That it did not fall within the Caddo Indian territory. It was not the effect of the confirmation which was suspended, for the act did not confirm the claim; but the
316 action of Congress on the claim itself was suspended and reserved for its subsequent consideration after the ascertainment of a particular fact, thus requiring the further action of Congress to complete the title of the plaintiff. Nor, indeed, can it be said that act reserved the land for sale or precluded the United States from *from* disposing of the same by sale, donation, or otherwise, for the land was not surveyed, located, or described in such a manner as to designate it with sufficient certainty.—(Maynard's Heirs *vs.* Massey, 8 Howard, 293; Cousin *vs.* Blanc's ex'ors *et al.*, 19 Howard, 80.)

The plaintiff, then, not being able to rely upon this act of Congress to support his title must, of necessity, look to some other. He cannot rely upon the act of 3d March, 1823, because that expressly provides "that nothing contained in this act shall be considered a pledge on the part of Congress to confirm any claim thus reported."—(See U. S. Statutes at Large, vol. 3, p. 757.)

We find, then, that the plaintiff, according to the opinion of the court, is without any claim recognized or confirmed by any act of Congress, and yet a judgment is rendered in his favor. This
317 seems strange, but nevertheless, as we understand the opinion, it is true. It is said by the court that "the action of Congress on the claim itself was suspended and reserved for its subsequent consideration." It is not pretended that there was any "subsequent consideration" of the claim by Congress, but this honorable court has supplied that "consideration" by supposing that Congress would have confirmed the claim. But it is said the plaintiff has an equitable claim to the land. If this be so, there must be some act of Congress creating this claim. It seems to us the court

has fallen into the error of assimilating the position of Edward McLaughlin, from whom the plaintiff derives his claim, to that of a person claiming a right of pre-emption, or to that of a person who has entered a tract of land at private sale and obtained a receiver's receipt for the price, or to that of a front proprietor entitled under some act of Congress to enter certain portions of the land in the rear of his front tract. The difference in the situation of the present plaintiff and of those standing in the relation just stated, is so manifest that it needs but to be stated to be appreciated. As we
318 have before observed, there is no act of Congress purporting to invest Edward McLaughlin with a title to any tract of land or conferring upon him any right whatsoever; but in the cases of persons claiming the right of pre-emption, or of those who have purchased at private sale from the officers of the United States, or of those claiming back concessions, their claims are based upon acts of Congress of full force, and under which they could have their titles perfected by the acts of ministerial officers. In other words, in the case of pre-emptors and the like the court would not be called upon to supply an act of Congress, as we respectfully conceive it has done in the present case.

In further illustration of this difference we would suggest that in nearly if not all the cases referred to the party claiming the benefit of the title fraudulently procured was possessed of an inchoate title, so fixed and vested that it would scarcely have been in the power of Congress to divest it. Had Edward McLaughlin any such title or claim? By no means; for he was without the slightest foundation of a claim. Even admitting his "habitation, occupation, and
319 cultivation prior to the *to the* 22d of February, 1819," still there is no law of the United States giving any title or claim. Whence comes, then, his "equitable claim?" It rests upon the supposition that Congress might at some time or other have granted him a tract of land. It, perhaps, would be safer to act upon the fact that Congress never did make the grant rather than upon the supposition of what have been done.

In this connection we would beg leave to submit that if the plaintiff's claim is based upon the "equitable interest" created by the "habitation, occupation, &c.," of Edward McLaughlin, then the plaintiff should show his title from him; that is, if equitable title was in Edward McLaughlin, the plaintiff should have produced a deed or act of conveyance from him. We grant that it would not have been incumbent upon him to have produced such deed if Congress had confirmed the claim to Dyson as assignee. But inasmuch as he has not an act of confirmation he should a deed by McLaughlin to Dyson.

We desire, in the second place, to submit a few remarks in relation to the question of the locality of the claim of Edw'd McLaughlin, under which the plaintiff asserts title in himself.
320 It is not pretended that the description of the claim, as given in the report of the commissioners, is sufficiently definite to indicate the tract in controversy, or, indeed, any other. The first evidence, in point of time as well as reliability, touching the ques-

tion is the act of sale from Dyson to Mahle, Tippetts, and Wright, dated 2d May, 1835.

In this act, being the only one from Dyson, under whom the plaintiff claims, the land is described as "six hundred and forty acres—between the Pascagoula and Prairie bayous." Now, here is *is* the first link in the plaintiff's chain of title, made twenty years before the institution of this suit by the claimant himself, and it fixes the location of the claim. The same description is given in the sales by Tippetts and Mahle to Wright, made in a few days after their purchase, and is again repeated in the sale from Wright to the present plaintiff in 1840.

A glance at the map attached to the record will show that the land conveyed by these several acts does not touch the land of de-
321 fendant. But the plaintiff having discovered, shortly after the institution of this suit, that according to his deeds he would not be able to reach the land of the defendant, files an amended petition, in which he avers that there is a misdescription in the "original act from Dyson, which was repeated in all the subsequent sales." The plaintiff confesses by this amendment that the land called for by the deeds is not the land held by the defendant, otherwise he would not allege a misdescription.

What evidence is there to support this averment of the plaintiff? In the first place we would remark that Dyson was the claimant; and surely he knew in 1835 what land he claimed, and what land he was willing to sell. It is pretended that he was the assignee of Edward McLaughlin. If so, surely he was apprised in 1835 what land had been assigned him. There is not one particle of proof to show that Dyson ever contemplated or intended to convey any other than the land as described in the act of sale referred to. It is not shown that he ever said or did anything to that effect.

In addition to this, the testimony of every witness in the
322 case, with one or two exceptions, shows that Edward McLaughlin claimed between the bayous; all of them testify that his house was there.

But if any doubt had existed upon the question as to where the improvement of Edward McLaughlin was situated it has been removed by the plaintiff. After he had filed his amended petition, alleging there was a misdescription in the deeds, he filed a motion asking for an order of survey, in which he prayed that the survey be made "so as to include the old improvement of Edward McLaughlin in the fork of Pascagoula bayou and Prairie river, as established by the testimony of the witnesses taken in this case." The amended petition was filed February 5th, 1858, and the motion for the order of survey was filed 31st May following. So that we have not only the solemn admission of the plaintiff that the "old improvement" was situated in the fork of Pascagoula bayou and Prairie river; but he has coupled with it the averment that it is so established by the testimony of the witnesses taken in this case.

It is thus indisputably shown by the acts of sale offered in
323 evidence by the plaintiff, by the testimony of the witnesses of

both parties, and finally by the solemn admissions of the plaintiff himself that the land which Dyson claimed as assignee of Edward McLaughlin is not that which is held by the defendant. All of these facts are disposed of by this honorable court by the simple statement that "the misdescription of the land as to boundaries in all the transfers from Leonard Dyson to the plaintiff is of no consequence, because it is proven that Dyson never owned any other land in the neighborhood." We trust that the court will make a careful review of the evidence contained in the record before making this opinion final, for we are confident the court has fallen into a grave error upon this question. Can it be possible that Dyson did not know the land which he was selling was not "between the fork" of the bayous? Can it be possible that nearly all the witnesses are mistaken as to where McLaughlin lived? But above all, can it be possible that the plaintiff's own solemn judicial admissions may be disregarded?

In the third place, and whilst upon the subject of these
324 deeds, we would call the attention of the court to a point made in the appellee's printed brief, which seems to have escaped the notice of the court.

It is conceded by the plaintiff's amended petition that the land called for by the deed from Dyson is not that demanded in this suit; in other words, there was a misdescription in these deeds.

It is said that the defendant had notice of the plaintiff's claim. We would ask what would constitute the surest notice? Would it not be the acts of sale duly recorded? If, then, Mr. White looked to this source for information he would have been informed that the land which plaintiff claimed was situated "between the fork of the Pascagoula and Prairie bayous." Nothing was ever said about misdescription in deeds until two or three years after the institution of the suit.

It is stated in the opinion of the court "that the price purported to have been paid was not serious." This conclusion seems to us to be very remarkable. The price paid by the defendant was $3.000; and it is shown that was about the value of the land at the date of the sale. If the court was induced to make the statement from
325 the declarations of John McLaughlin after he sold to the defendant, then that declaration has outweighed the declaration made in the act of sale. Is there any good reason for this? He declares in a solemn notarial act that he has received $3,000; but this is destroyed by a witness testifying that he told him that he had only been paid "a horse, saddle, &c." But this testimony was not properly before the court, or if it was, the court certainly erred in not remanding the case, so that we might have an opportunity of rebutting it; which we had not, for the reason that it was rejected in the court below. And we certainly can rebut it, because it is within the personal knowledge of the undersigned that Mr. White paid nearly $2,000 of the price in cash, and he has every reason to believe that he paid the whole amount mentioned in the act of sale.

As to the declaration of the court, that, "in fact all the surrounding circumstances, the acts, actions, and declarations of the parties,

all tend to the conclusion that the defendant well knew the fraudulent character of John McLaughlin's title," we would remark there is not a particle of evidence in the record to show that Mr. White knew that there was any fraud in the presentation of the claim,
326 or in the proof by which it was sustained, or in anything connected with its establishment before the commissioners or its recognition by Congress. He was not in country at the time when John McLaughlin was said to have lived upon the land; nor is it shown by any one of the numerous witnesses who have testified in relation to the "habitation, cultivation, and occupation" of the land, ever stated to him that John McLaughlin had not occupied it. Add to this the fact that plaintiff's deeds called for another and different tract of land from that which the defendant purchased; and how can it be said that he intended to commit a fraud upon this plaintiff?

There are several points which we would notice, had they not been already commented upon by my colleague. We will content ourselves with a remark or two upon one other, and then rest the case, confident that the court will grant the rehearing which we respectfully ask.

The court has decided the case upon certain depositions which appear in a transcript of which it termed "rejected testimony." It is not a part of the regular transcript, certified by the clerk to
327 "contain a true, correct, and faithful transcript of all the proceedings had, and evidence adduced, and documents filed, &c." The undersigned was the counsel for the defendant, who had the management of the case when it was submitted and argued orally to this honorable court. When we were informed that the plaintiff intended to appeal the case, we ordered a transcript for our own use, and by that the case was prepared.

The transcript prepared for us does not contain any of this "rejected testimony."

Within three days after the plaintiff had filed the transcript in this honorable court, I examined it for the purpose of ascertaining that it was correct. I discovered only some clerical errors, which I thought would be apparent to the court. In this examination I commenced with the original petition and looked carefully through the record until I came to the regular certificate of the clerk. I naturally concluded that with this certificate the transcript ended. I only learned of the existence of this transcript of "rejected testimony" after I had argued the case in this hon. court. I thought it was then too late to take any action in relation to it, and I did believe it
328 would have been noticed by the court.

In addition to this, I desire to state that some one of the plaintiff's counsel desired me to consent, before the transcript was completed that the depositions which had been ruled out should be included. I refused to give my consent to this, because I knew that these depositions, or some of them at least, could be successfully rebutted, and it might be proper to do so.

Now, had these depositions come before this court in a regular and formal manner, it seems to us that when the court reversed the ruling

of the judge a quo, and held them admissible, the case should have been remanded with instructions to receive them in evidence, otherwise the defendant would be completely cut off from the opportunity of rebutting them.

The remark by the court, in referring to the testimony of Henry Strider, which is part of the "rejected testimony," that "we have no reason to discredit him" is rather suggestive upon this point; considering that his testimony was not received, it is not reasonable to suppose that any evidence would be offered to discredit him. A proposition to discredit a witness whose testimony has been rejected
329 would be absurd. The remark would apply with equal force to a proposition to rebut testimony which had been rejected.

It would be manifestly unjust to the defendant to decide the case against him upon this testimony.

In conclusion we would remark, that the decision of the case as rendered by the court depends mainly upon questions of fact; that the record is a large one, and made up in rather a confused manner; it is therefore by no means impossible that an erroneous impression may have been made upon the minds of the court.

Besides this, the fact that the plaintiff is wholly without any legal title, as decided by the court, and with a very vague equitable claim, if any at all, should create much hesitation before depriving defendant of the land, his title to which rests upon a Congressional grant followed by a patent, the full force and vigor of which are only attacked by oral testimony, the weight of which has been considered by a jury, and declared by them insufficient.

We therefore respectfully petition for a rehearing in the case.

B. L. HODGE,
For Appellee.

330 And on the 10th June, 1861, the application for a rehearing in this case was refused as follows, to wit:

Supreme court of the State of Louisiana.

The court met Monday, June 10th, 1861. Present: their honors, E. T. Merrick, chief justice; A. M. Buchanan, Thomas T. Land, and Albert Duffel, associate justices. His honor, Albert Voorhies, absent.

ELIJAH CANNON, app't
vs.
REUBEN WHITE, app'ee. } No. 35.

It is ordered that the rehearing prayed for in this case be refused.

Petition for writ of error.—Filed June 21st, 1861.

ELIJAH CANNON, ap't,
vs.
R. WHITE.

To the honorable E. Warren Moise, one of the judges of the supreme court of the Confederate States of America:

The petition of Reuben White, respectfully represents: that

the supreme court of Louisiana has, on the instant,
331 rendered a final decree against your petitioner in a certain cause therein, wherein E. Cannon is plaintiff and appellant, and your petitioner is plaintiff and appellee, the said cause being number 35 on the docket of the said court.

And your petitioner further represents that he is advised by counsel and verily believes that there is error to his prejudice in the said final decree, and that a writ of error lies from said decree to the supreme court of the Confederate States of America for the correction thereof.

Wherefore he prays that a writ of error issue in the said cause to the said supreme court of the State of Louisiana, returnable according to law in the supreme court of the Confederate States of America, and that the said plaintiff and appellant be cited to appear in the said court, and prays for general relief.

BENJAMIN, BONFORD & FINNEY.
Attys. for R. White.

Order.

Let the writ of error be allowed as prayed for, upon petitioner giving bond with G. W. Huntington as surety in the penal
332 sum of fifteen thousand dollars, conditioned according to law.

E. WARREN MOISE,
Judge D. C. Dist., La.

21st June, 1861.

Indorsed: No. 35, E. Cannon, app't, *vs.* R. White. Petition for writ of error. Supreme court, filed June 21st, 1861.

F. McCULLOCH, *Dy. C'k.*

Bond.—Filed June 21st, 1861.

Know all men by these presents, that we, Reuben White as principal, and G. W. Huntington as surety, are held and firmly bound unto E. Cannon, in the full and just sum of fifteen thousand dollars, to be paid to the said E. Cannon, his certain attorney, executors, administrators, or assigns, to which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents. Sealed with our seals and dated this 19th day of June, in the year of our Lord one thousand eight hundred and sixty-one.

Whereas lately at a supreme court of the State of Louisiana, holding sessions in and for the eastern district of Louisiana, in the city of New Orleans, in a suit depending in said supreme court,
333 wherein S. Cannon was plaintiff and Reuben White was defendant, judgment was rendered against the said Reuben White, defendant, and the said Reuben White having obtained a writ of error, and filed a copy thereof in the clerk's office of the said supreme court to reverse the judgment in the aforesaid suit, and a citation directed to the said E. Cannon, citing and admonishing him to

be and appear at a supreme court of the Confederate States of America, to be holden at Richmond, Virginia, on

Now the condition of the above obligation is such, that if the said Reuben White shall prosecute his writ to effect, and satisfy such judgment as may be rendered, and answer all damages and cost if he fail to make his plea good, then the above obligation to be void, else to remain in full force and virtue.

[L. S.] REUBEN WHITE,
By P. E. BONFORD, *Atty.*
[L. S.] G. W. HUNTINGTON.

Sealed and delivered in the presence of—
J. W. GURLEY.

Indorsed: Supreme court of the State of Louisiana. No. 35. E. Cannon *vs.* R. White. Bond for writ of error. Filed June 21st, 1861.

F. McCULLOCH, *Dy. C'k.*

334 *Writ of error.—Filed June 21st*, 1861.

CONFEDERATE STATES OF AMERICA, *ss:*

The President of the Confederate States to the honorable the judges of the supreme court of the State of Louisiana, holding sessions for the eastern district of Louisiana, greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a *a* plea which is in the said supreme court before you, or one of you, between E. Cannon and Reuben White, a manifest error hath happened to the great damage of the said Reuben White as by his complaint appears.

We, being willing, that error if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the supreme court of the Confederate States, together with this writ, so that you have the same at Richmond on in the said
335 supreme court, to be then and there held, that the record and and proceedings aforesaid being inspected, the said supreme court may cause further to be done therein to correct that error what of right and according to the laws and customs of the Confederate States should be done.

Witness the honorable E. Warren Moise, judge of the district court of the Confederate States, district of Louisiana, this 21st day of June, 1861.

[L. S.] J. W. GURLEY,
Clerk of the Confederate States District, for District of Louisiana.

Indorsed: Supreme court of State of Louisiana. No. 35. E. Cannon *vs.* Reuben White. Writ of error. Filed June 21st, 1861.

F. McCULLOCH, *Cy. C'k.*

Copy writ of error.

CONFEDERATE STATES OF AMERICA, *ss:*

The President of the Confederate States to the honorable the judges of the supreme court of the State of Louisiana, holding sessions for the eastern district of Louisiana, greeting:

Because in the record and proceedings, as also in the
336 rendition of the judgment of a plea which is in the said supreme court before you, or one of you, between E. Cannon and Reuben White, a manifest error hath happened to the great damage of the said Reuben White, as by his complaint appears.

We, being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the supreme court of the Confederate States, together with this writ, so that you have at Richmond on the
in the said supreme court, to be then and there held, that the record and proceedings aforesaid being inspected, the said supreme court may cause further to be done therein to correct that error what of right and according to the laws and customs of the Confederate States should be done.

Witness the honorable E. Warren Moise, judge of the district court of the Confederate States, district of Louisiana, this 21st day of June, 1861.

337 (Signed) J. W. GURLEY,
Clerk of the Confederate States
[L. S.] *District Court for District of Louisiana.*

Indorsed: Supreme court of the State of Louisiana. E. Cannon *vs.* R. White. Writ of error. Copy of writ of error lodged in the office of the clerk of the supreme court of the State of Louisiana in pursuance of the statute in such cases made and provided, this 21st day of June, 1861.

(Signed) BENJAMIN, BONFORD & FINNEY,
Attorneys for Plaintiff in Error.

Supreme court. Filed June 21st, 1861.
F. McCULLOCH, *C'y C'k.*

Citation in error.

CONFEDERATE STATES OF AMERICA,
District of Louisiana:

The president of the Confederate States of America to Elijah Cannon, greeting:

You are hereby cited and admonished to be and appear at a supreme court of the Confederate States of America, to be holden at the city of Richmond, in the State of Virginia,

pursuant to a writ of error filed in the clerk's office of the supreme court of the State of Louisiana, holding
338 sessions in the eastern district of said State, wherein Reuben White is plaintiff in error, to show cause, if any there be, why the said judgment rendered against the said plaintiff in error, as in said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness my hand at the city of New Orleans, this 21st day of June, A. D. 1861.

E. WARREN MOISE,
Judge D. C. Dist., La.

Sheriff's return.

SEPTEMBER 20TH, 1861.

I served a copy of the within citation of error on E. Cannon personally.

(Signed) J. Q. IRWIN,
Deputy Sheriff of the Parish of Orleans.

Indorsed: E. Cannon *vs.* Reuben White. Citation in error. Supreme court. Filed September 24th, 1861.
339 F. McCULLOCH, *C'y C't k.*

Depositions of Robin Casey and O. Flores.

In district court, parish of Caddo.

REUBEN WHITE *vs.* C. McMULLEN. } No. 1,640.

In 17th dist. court, parish of Caddo.

REUBEN WHITE *vs.* C. McMULLEN. } No. 1,640.

Interrogatories to be propounded to Robin Casey and O. Flores, residents of De Soto parish, and competent and material witnesses. The answers, taken under commission, to be used in evidence for the defendant on the trial of the above-entitled cause:

Int. 1st. Are you acquainted with the parties to this suit?

Int. 2d. Did you or did you not know one Edward or Edmond McLaughlin, who lived many years ago on Red river?

Int. 3d. Do you or do you not know one John McLaughlin, of Caddo parish? and if yea, how is he related to Ed. McLaughlin aforesaid, if at all?

340 Int. 4th. Please state, if you know, who made a settlement before the year 1819, just below the present mouth of Pascagoula bayou, on the right bank (descending) of Red river, or on the land in controversy in this suit.

Int. 5th. Please state how you came to know anything of the particular spot where Ed. McLaughlin settled on Red river, and how long it is since, if you recollect.

Int. 6th. Did or did not John McLaughlin ever settle, cultivate, and occupy any land on the bank of Red river below the present mouth of Pascagoula bayou?

Int. 7th. Did or did not John McLaughlin ever acquire an Arroyo Hondo claim on the river by occupation and cultivation? and if yea, when was it, and what became of it?

Int. 8th. Please state, as near as you recollect, the names and locations on Red river before the year 1819, for a few miles above and below Pascagoula bayou.

341 Int. 9th. Please state anything else you may know of interest to the parties in the present controversy.

RAYSDON & SPOFFORD
& R. N. WOOD,
Of Counsel for Def't.

The plaintiff excepts to the foregoing interrogatories on the ground that the testimony sought is incompetent and inadmissible, and impertinent to the issue between the parties to this suit. He reserves all other legal exceptions to the same, accepts service, and waives time.

24th July, 1849.

GILBERT & LANDRUM,
Att'y for Pl'ff.

Commission.

The State of Louisiana to any judge or justice of the peace in and for the parish of Desoto, State of Louisiana, or to any other duly commissioned and authorized officer to take testimony in civil cases by commission in and for the same, greeting:

Know ye that we, reposing full and entire confidence in your
342 integrity and ability, do hereby empower and authorize you to cite and cause to appear before you, Robin Casey and O. Flores, witnesses on the part of the defendants, in a certain suit now pending in the district court in and for the parish of Caddo, State of Louisiana, numbered 1,640, in which Reuben White is plaintiff, and C. McMullen is defendant; and the answers of the said witnesses, under oath, to the annexed interrogatories, you shall reduce to writing, and cause the said answers to be subscribed by said witnesses, after having duly certified the same under your hand and private seal, you will inclose with this commission and annexed interrogatories, seal and direct the same to the clerk of our said court on or before the 1st Monday in November next.

Witness the honorable Edward R. Olcott, judge of our said court, this 24th day of July, A. D. 1859.

JNO. M. LEWIS, *Clerk.*

Answers to interrogatories.

343 Depositions of Robin Casey, produced and sworn and examined by virtue of the annexed commission, on the 5th day of September, 1849, at my office in the town of Mansfield, Desoto, Louisiana, before me, J. E. Cunningham, justice of the peace in and for the parish of Desoto and State of Louisiana, to be introduced as evidence in a certain case now pending in the district court, to be holden on the first Monday in November next, at the town of Shreveport, in the parish of Caddo, State of Louisiana, in which Reuben White is plaintiff, and C. McMullen is defendant.

On the part of the defendant, Robin Casey, being first duly sworn, to the first interrogatory answers and says:

Int. 1st. Answers: I am acquainted with C. McMullen, but not with Reuben White.

Int. 2. I do.

Int. 3d. I am acquainted with John McLaughlin, and that he is a son of Edward McLaughlin.

Int. 4th. I took Edward McLaughlin in my boat to the south
344 side of the Pascagoula bayou, between that and the right bank of Red river, descending; and he settled here some time in the year 1816 or '17, on the same land in controversy, below the mouth of the Pascagoula bayou, and there remain for some ten or more years, and there was no settlement besides Edward McLaughlin, the father of the said John McLaughlin.

Int. 5. Because I took him there in my boat, and bee hunted around there for some time in a lake near there, and often stayed with him at his camp, before he built his dwelling house, all of which he done himself some 32 or 33 years since.

Int. 6. The said John McLaughlin never did make any settlement or improvement below the present mouth of the Pascagoula bayou, for ten years after the settlement of said Edward McLaughlin, nor ever afterwards within my knowledge.

Int. 7. John McLaughlin did acquire an Arroyo Hondo claim about seven miles above the mouth of the Pascagoula bayou, on Red
345 river, by occupation and settlement, which he sold to Antoine Porier, whereon he now lives.

Int. 8. There was no settlement at the time for some 15 miles below the Pascagoula bayou, except that of Edward McLaughlin the Red river, and the nearest settlement above, was a Frenchman, of the name of Fafee; next John McLaughlin; the next Samuel Norris: no others on the river.

Int. 9. I do not know anything further that would be of benefit to the parties to this suit, than that Edward McLaughlin was the only settler on the right bank of the Red river, below the mouth of Pascagoula bayou, 15 miles, before the year 1819, or for many years afterwards, and if there had been any I would have seen it, as I was

frequently at that place and in the vicinity; the witness further states that he is about 57 years old.

his
ROBIN + CASEY.
mark.

Sworn to and subscribed before me, the 5th day of September, A. D. 1849.

J. E. CUNNINGHAM,
Justice of the Peace.

346 STATE OF LOUISIANA, *Parish of De Soto:*

J. E. Cunningham, justice of the peace in and for the parish of De Soto, and State of Louisiana, do hereby certify that Robin Casey, the deponent, was by me duly sworn to declare the truth on the questions put to him in the above-entitled suit of Reuben White *vs.* C. McMullen, pending before the district court, to be holden in the parish of Caddo, and State of Louisiana; that the interrogatories were produced to him, and his answers hereto taken in writing, and subscribed by him in my presence, and on the day and year first above written.

Given under my hand officially at Mansfield, September the 5th, A. D. 1849.

J. E. CUNNINGHAM,
Justice of the Peace.

Depositions of Henry Strider.

Opened and filed March 25, 1850.
F. G. FITZPATRICK, *D'y Clerk.*

REUBEN WHITE *vs.* C. MCMULLEN. } No. 1,640.

347 In D. C., Caddo.

Interrogatories to be propounded to Henry Strider, a competent and material witness for the defendant, and now residing in the parish of De Soto, State of Louisiana, the answers whereto, under commission, to be used in evidence on the trial of the above-entitled cause:

Int. 1st. Do you know the parties to this suit?

Int. 2d. Have you or have you not ever heard the plaintiff, Reuben White, say anything with reference to John McLaughlin's claim, which is in controversy in this suit? and if yea, what did he say, and when was it, and who were present, and where?

Int. 3d. Please state anything else you may know of interest to the parties to this suit.

RAYSDON & SPOFFORD,
Att'ys for Def't.

Received, Shreveport, August the 30th, 1849, and on the same day served a certified hereof on John M. Landrum, att'y for the plaintiff, personally in the town of Shreveport.

R. A. CRAIN,
D'y Sheriff.

348 *Commission.*

The State of Louisiana to any judge or justice of the peace in and for the parish of De Soto, State of Louisiana, or to any other duly commissioned and authorized officer to take testimony in civil cause by commission in and for the same, greeting:

Know ye that we, reposing full and entire confidence in your integrity and ability, do hereby empower and authorize you to cite and cause to appear before you Henry Strider, witness on the part of the defendant in a certain suit now pending in the district court in and for the parish of Caddo, State of Louisiana, numbered 1,640, in which Reuben White is plaintiff and C. McMullen is defendant, and the answers of the said witnesses under oath to the annexed interrogatories you shall reduce to writing, and cause the same answers to be subscribed by said witnesses, and after having duly certified
349 the same under your hand and private seal, you will enclose, with this commission and annexed interrogatories, seal and direct the same to the clerk of our said court, on or before the 1st Monday in November next,

Witness the honorable Edward R. Olcott, judge of our said court, this 3d day of September, 1849.

JNO. M. LEWIS, *Clerk.*

Answers to interrogatories.

Depositions of Henry Strider, produced and sworn, and examined by virtue of the within-annexed commission, on the 5th day of September, 1849, at my office, in the town of Mansfield, parish of De Soto, State of Louisiana, before me, J. E. Cunningham, justice of the peace in and for the parish of De Soto, and State of Louisiana, to be introduced as evidence in a certain case now pending in the district to be holden on the first Monday in November next, at the town of Shreveport, in the parish of Caddo, State of Louis-
350 iana, in which Reuben White is plaintiff and C. McMullen is the defendant, on the part of the defendant:

Henry Strider, being first sworn to the interrogatories, answers and says:

Int. 1. Answers, yes.

Int. 2. Some time in August or September, 1848, Mr. Reuben White came to Mr. McMullen's house on Red river, and they had a long conversation relative to John McLaughlin's claim. McMullen asked White why he bought a claim that was fraudulent; he, White, answered that his counsel, 3 in number, at the land office told him that the claim being fraudulent made no difference; that the govern-

ment had given a patent, consequently, if White lost the land the government would be bound to remunerate him, which would be better for him than the land.

Int. 3. From the whole conversation that I heard I could draw no other inference than that if Mr. White, being aware of the claim of John McLaughlin being fraudulent, he, the said White, fur-
351 ther said that he had fully inquired as to the fraud, and was told that it would make no difference, whether fraudulent or not.

HENRY STRIDER.

Sworn to and subscribed before me, this 5th day of September, A. D. 1849.

J. E. CUNNINGHAM,
Justice of the Peace.

STATE OF LOUISIANA, *Parish of De Soto*:

I, J. E. Cunningham, justice of the peace in and for the parish of De Soto and State of Louisiana, do hereby certify that Henry Strider, the deponent, was by me duly sworn to declare the truth on the questions put to him in the above-entitled cause of Reuben White *vs.* C. McMullen, pending before the district court to be holden in the parish of Caddo and State of Louisiana; that the interrogatories were produced to him and his answers thereto taken in writing and subscribed by him in my presence on the day and year above written.

352 Given under my hand, officially, at Mansfield, September 5th, A. D. 1849.

J. E. CUNNINGHAM,
Justice of the Peace.

Depositions of Nat. Norris.

Opened and filed April 15th, 1850.

F. G. FITZPATRICK, *D. Clerk.*

In 17th district court, parish of Caddo.

WHITE *vs.* McMULLEN. } No. 1,640.

Interrogatories to be propounded to Nat. Norris, a resident of the parish of Natchitoches, and a competent and material witness, whose answers hereto, taken under commission before any justice of the peace or other competent person in said parish, to be used as evidence for the defendant on the trial of the above-entitled cause:

Interrogatory 1st. Are you acquainted with the plaintiff, Reuben White? and if yea, how long have you known him?

Interrogatory 2d. Did you know the late John McLaughlin, of the parish of Caddo, from whom said White pretends to have pur-
353 chased the land below Pascagoula bayou, which is in controversy in this suit?

Interrogatory 3d. Please state what, if anything, you have heard the said John McLaughlin in his lifetime say about having any claim to the said land, and what he said about a patent issuing in his favor for the said land, and state all his conversation upon the subject, with the dates and circumstances, as near as you recollect.

Interrogatory 4th. Please state how said McLaughlin came to sell such a claim to Reuben White, and all that said McLaughlin told in your presence about the transaction.

Interrogatory 5th. What kind of a trade did White make with McLaughlin, and what was the real price and consideration of the sale? and was it absolute or conditional, and if conditional, what were the conditions? If you know nothing of your own knowledge, please state all you may have heard either White or McLaughlin say upon these subjects.

354 Interrogatory 6th. How much, if anything, did McLaughlin actually received from White for said claim?

Interrogatory 7th. Was or was it not generally reported and believed along Red river, prior to White's purchase of McLaughlin, that the John McLaughlin claim or patent for land below Pascagoula bayou was founded on fraud and could not be maintained? And did or did not Reuben White know that such was the general opinion?

Interrogotory 8th. Please state all that you may know concerning Reuben White's knowledge or means of knowledge of the fraudulent character of the John McLoughlin claim to the land below Pascagoula bayou.

Interrogatory 9th. Please state whether John McLoughlin had or could have had any claim to land below Pascagoula bayou on Red river founded on occupation and cultivation by himself prior

355 to the 22d February, 1819; and further state all you may know tending to show the fraudulent character of the claim set up in this suit by Reuben White to the land below said bayou.

WOOD & RAYSDON & SPOFFORD,
Att'ys for Def't.

The plaintiff excepts to all the foregoing interrogatories, on the ground that the testimony sought is incompetent, inadmissible, and to the issue between the parties to this suit, and reserves all legal exceptions to the same, 26th March, 1850. He accepts service and waives time.

GILBERT & LANDRUM,
Att'ys for Pl'ff.

Commission.

The State of Louisiana to , of the parish of Natchitoches, State of Louisiana, or to any other judge or justice of the peace in and for the same, or to any other duly commissioned and authorized officer to take testimony in civil cases by commission in and for the same, greeting:

356 Know ye that we, reposing full and entire confidence in your integrity and ability, do hereby empower and authorize

you to cite and cause to appear before you Nat. Norris, a resident of the parish of Natchitoches, and a competent witness on the part of the defendant in a certain suit now pending in the district court in and for the parish of Caddo, State of Louisiana, numbered 1,640, in which Reuben White is plaintiff and McMullen is defendant, and the answers of the said witness under oath to the annexed interrogatories you shall reduce to writing and cause said answers to be subscribed by said witness, and after having duly certified the same under your hand and private seal, you will enclose with this commission and annexed interrogatories, seal and direct the same to the clerk of our said court on or before the 3d Monday in April next.

Witness the honorable Edward R. Olcott, judge of our said court, this 26 day of March, A. D. 1850.

B. WELLS, *Clerk.*

357 *Answers to interrogatories.*

In 17th district court, parish of Caddo.

REUBEN WHITE *vs.* McMULLEN. } No. 1,640.

Has personally appeared before me this day, the 4th of April, A. D. 1850, Mr. N. A. Norris, of the parish of Natchitoches, State of Louisiana, who has given his evidence in the suit pending between Reuben White *vs.* Mullen, in 17th district court, in the parish of Caddo, in which Reuben White is plaintiff, and McMullen is defendant.

Answer to 1st interrogatory: 1st. I am acquainted with Reuben White, and has known him ever since the year eighteen hundred and thirty-nine.

2d answer. It is to my recollection of knowing John McLaughlin ever since the year eighteen hundred and twenty-eight. I was at that time eight years old.

3d answer. It is to my knowledge that John McLaughlin told me that Reuben White sent H. Barker, his overseer, to him,
358 said John McLaughlin, who was at the time residing on the prairie, on the north side of Cross lake, to meet him at Shreveport to transact particular business; and when the said John McLaughlin came to Shreveport, Reuben White informed him that he, said John McLaughlin, had some land on Red river; and the said McLaughlin stated that if he had land on Red river he did not know it; and Reuben White told him that it was the tract of land that Captain Wright pretended to have a claim on. Mr. John McLaughlin told Reuben White that his father, Edward McLaughlin, had sold that tract of land to Leonard Dyson, and that said Dyson had sold to Captain Isaac Wright, and the said John McLaughlin told Reuben White that he could not have any claim to said land; that Reuben White told him that he did have a claim there; and that he could have a patent issued in forty days. Reuben White then pro-

posed to purchase his interest at all risk; he then told Reuben
359 White that if he had any right there to the land, that it had been got fraudulently and unknown to him. This conversation took place on the Cross lake, near or about one month after the sale had been passed from John McLaughlin to Reuben White. I think that it was in the spring of eighteen hundred and forty-eight, but not very positive.

4th answer. I heard John McLaughlin tell me that he had told Reuben White that if he had any swearing to do, he, the said John McLaughlin, would not sell it to him, because he really thought it was a dam piece of rascality. He further told that he had sold it to Reuben White, but I do not recollect the amount; one part was to be paid down, and the other part to be paid when the title would be made good. He also further told me to say nothing about it until the first payment was made, and that for the balance he did not care anything about, for he was getting something for nothing here.

360 5th answer. I had a conversation with Reuben White on the subject; he told me that if it had been got fraudulently that he did not have it done; if there was anything unclean about it, that he had nothing to do with it, only buying John McLaughlin's interest.

6th answer. I know that John McLaughlin has actually received from Reuben White between thirty-five or forty head of cattle, a horse, saddle, and bridle.

7th answer. I positively know that a Mr. Briggs, about three or four years previous to the sale between Reuben White and John McLaughlin, came to my father's house and inquired of him if he could not prove a tract of land on the lower side of the Pascagoula bayou, in the name of Rebecca McLaughlin; my father told him if that was his object, that he had to hunt some other witness; that he knew that Rebecca McLaughlin had no right to land there.

8th answer. The answer to the eighth interrogatory has
361 been answered in the above question.

9th answer. I never knew that John McLaughlin had any claim below the Pascagoula bayou until thus, after the sale between him and Reuben White. I never knew any other claims below the Pascagoula bayou but that of Edward McLaughlin.

N. A. NORRIS.

Sworn to and subscribed this 4th day of April, A. D. 1850, before me.

J. M. COMPERE,
Justice of the Peace for the Parish of Nachitoches.

I do hereby certify the above to be a true statement of the testimony of N. A. Norris, before me, this 4th of April, A. D. 1850.

J. M. COMPERE.
Justice of the Peace.

Depositions of John McCollum.

Opened and filed April 15, 1850.

F. G. FITZPATRICK, *D'y Cl'k*

In 17th dist. court, parish of Caddo.

REUBEN WHITE *vs.* McMULLEN. } No. 1,640.

362 Interrogatories to be propounded to John McCollum, of the town of Donaldsonville, La., a competent and material witnes, the answers whereto, taken under commission before any judge or justice of the peace of the parish of Ascension, to be used in evidence for the defendant on the trial of the above-entitled cause:

Interrogatory 1st. Did you ever know John McLaughlin, formerly of the parish of Natchitoches?

Interrogatory 2d. Do you know anything about a claim to six hundred and forty acres of land on the south bank of Red river, below and contiguous to Pascagoula bayou, which was formerly put in at the land office at Opelousas, La.. in the name of John McLaughlin? and if yea, what do you know relative to said claim?

Interrogatory 3d. Please state whether the said John McLaughlin ever made and signed an affidavit in your presence, before an acting justice of the peace, relative to said claim, and if yea, when,

363 and where, and before whom.

Interrogatory 4th. If such affidavit was made and signed by him, what has become of it? Is it, or is it not, lost? and if yea, how do you know it?

Interrogatory 5th. What were the contents of the said affidavit?

Interrogatory 6th. Do you know the nature and foundation of the claim reported in favor of John McLaughlin, in reports of register and receiver, at Opelousas, dated 30th May and 6th June, 1840, and entered as No. 162 in the reports? If yea, what do you know?

Interrogatory 7th. Please state all you may know as to the origin of such claim, and whether John McLaughlin himself had anything to do with its reception.

Interrogatory 8th. State anything you may know of interest to the parties in this suit.

WOOD, ROYSDON & SPOFFORD,
Att'ys for Def't.

364 Plaintiff excepts to all the foregoing interrogatories upon the ground that the questions are leading, and that the testimony sought is inadmissible, incompetent, and impertinent to the issue between the parties, and reserves all legal exceptions, accepts service, and waives time.

March 28th, 1850.

GILBERT & LANDRUM,
Att'ys for Pl'ff.

Answers to interrogatories.

The State of Louisiana to any judge or justice of the peace in the parish of Ascension and State of Louisiana, or to any other duly commissioned and authorized officer to take testimony in civil causes, by commission in and for the same, greeting:

Know ye that we, reposing full and entire confidence in your integrity and ability, do hereby empower and authorize you to cite and cause to appear before you John McCollum, witness on the part of the defendant, in a certain suit now pending in the district
365 court in and for the parish of Caddo, State of Louisiana, numbered 1,640, in which Reuben White is plaintiff, and C. McMullen is defendant, and the answers of the said witness, under oath, to the annexed interrogatories, you shall reduce to writing, and cause the said answers to be subscribed by said witness; and after having duly certified the same under your hand and private seal, you will enclose, with this commission and annexed interrogatories, seal and direct the same to the clerk of our said court on or before the 1st Monday in May next.

Witness the honorable Edward R. Olcott, judge of our said court, this 28th day of March, A. D. 1850.

F. G. FITZPATRICK,
D'p'y Clerk.

Depositions of a witness produced, sworn, and examined, by virtue of the annexed commission, in the town of Donaldsonville, on the 9th day of April, eighteen hundred and fifty, by P. A. Hatkinson, one of the justices of the peace in and for the parish of As-
366 censión, in a certain case pending in the seventeenth judicial district court of the State of Louisiana, in and for the parish of Caddo, wherein Reuben White is plaintiff, and C. McMullen is defendant:

On the part of defendant, John McCollum, being produced and sworn, answers as follows to the interrogatories propounded to him in the cause:

Interrogatory 1st. Did you ever know John McLaughlin, formerly of the parish of Natchitoches?

Answer. Witness states that he does.

Interrogatory 2d. Do you know anything about a claim to six hundred and forty acres of land on the south bank of Red river, below and contiguous to Pascagoula bayou, which was formerly put at the land office, at Opelousas, La., in the name of said John McLaughlin? and if yea, what do you know relative to said claim?

Answer. Witness states that he has no knowledge that
367 John McLaughlin had any claim in the land office at Opelousas, La.; and further, John McLaughlin state to witness that his claim was under his father's name, as his property, and by him held as his property.

Interrogatory 3d. Please state whether the said John McLaughlin ever made and signed an affidavit in your presence before an acting

justice of the peace relative to said claim. And if yea, when and where, and before whom.

Answer. Witness states that John McLaughlin did make an affidavit before Mr. Mery, who was then either a justice of the peace or parish judge. This affidavit was done out of witness's presence. It was then handed to witness by Capt. White, with the seal of the governor of Louisiana affixed to it. Witness then deposited it in the land office at Opelousas, Louisiana. This affidavit was made either in the winter of 1844 or 1845, in the parish of Caddo, and signed by John McLaughlin.

368 Interrogatory 4th. If such affidavit was made and signed by him, what has become of it? Is it or is it not lost? And if yea, how do you know it?

Answer. Witness states that he deposited his affidavit in the land office at Opelousas, as stated above, and that last summer (1849) witness called at that land office to get this affidavit, and was answered by the register that it was not to be found in his office; that it was either lost or taken away, as he had made a thorough examination, and could not be found.

Interrogatory 5th. What were the contents of said affidavit?

Answer. Witness believes that the contents of that affidavit went to show that John McLaughlin had no pretension to that claim below Pascagoula bayou.

Interrogatory 6th. Do you know the nature and foundation of the claim reported in favor of John McLaughlin in reports of reg-
369 ister and receiver at Opelousas, dated 30th May and 6th June, 1840, entered as No. 162 in the reports? If yea, what do you know?

Answer. Witness states that John McLaughlin stated that if any claim on this land had been proved up under his name it must have been a fraudulent one.

Interrogatory 7th. Please state all you may know as to the origin of said claim, and whether John McLaughlin himself had anything to do with its inception.

Answer. Witness states that John McLaughlin often stated to him that he had nothing to do with the proving of this claim, and that it was proved it was fraudulently done; and that he, John McLaughlin, had cultivated the land on the upper side of Pascagoula bayou, opposite to his father's claim, and sold his interest that claim to other persons; and that might be the claim they were attempting to prove under his name.

370 Interrogatory 8th. State anything else you may know of interest to the parties to this suit.

Answer. Witness further states that he was told by the oldest inhabitants residing in that neighborhood that this land had always been claimed by Edward McLaughlin, the father of John. Did not believe that John McLaughlin had any pretension to that land. Those inhabitants were Sam Morris, Peter Pryor, and —— Wallace.

JOHN McCOLLUM.

Sworn to and subscribed before me, Ascension, this 9th April, 1850.

H. A. HATKINSON, *J. P.*

I, H. A. Hatkinson, one of the justices of the peace in and for the parish of Ascension, do hereby certify that John McCollum, the defendant, was by me sworn to declare the truth on the questions put to him; that the interrogatories and cross-interrogatories were read to him and his answers thereto taken into writing, and subscribed in my presence, at the parish of Ascension, on this 9th of April, 1850.

371 P. A. ATKINSON, *J. P.*

In 17th dist. court, parish of Caddo.

WHITE *vs.* McMULLEN. } No. 1,640.

Interrogatories to be propounded to Pierre Roubien, (or Robelou,) of the parish of De Soto, the answers whereto, taken under commission, to be used in evidence for the defendant in the above-entitled cause:

Interrogatory 1st. How old are you, and how long have you lived in the Red river country?

Interrogatory 2d. Did you know the late John McLaughlin, of the parish of Caddo? And if yea, how long did you know him?

Interrogatory 3d. Did said John McLaughlin inhabit and cultivate a tract of land situate and lying on the west bank of Red river, below and contiguous to Pascagoula bayou, on and prior to the 22d day of February, 1819? And if he did not, who did?

372 Interrogatory 4th. (To Pierre Robelou.) Did you make any affidavit upon the subject on or about the 14th Jan'y, 1834?

Interrogatory 5th. Do you know anything about the nature of John McLaughlin's claim to a section of land below and contiguous to Pascagoula bayou? if yea, what is the character of that claim?

Interrogatory 6th. (To Pierre Robelou.) Did you ever hear that yourself and one Charles Myers were said to have proved up John McLaughlin's claim to the said land in the year 1834? and if yea, state all you know about it.

Interrogatory 7th. Do you know the said Charles Myers? and if yea, who is he; where does he live; how long did he live on Red river, and where, and what was his character?

Interrogatory 8th. Please state all you may know relative to the validity or invalidity of John McLaughlin's claim to the land aforesaid.

373 Interrogatory 9th. Do you know Reuben White; and if yea, did he ever talk to you upon this subject, or in your presence, before he bought of John McLaughlin? If so, please state all he said concerning this claim, and whether he knew that it was reputed to be a fraudulent claim.

Interrogatory 10th. Please state anything further you may know of interest to the parties in this controversy.

WOOD, ROYSDON & SPOFFORD,
Att'ys for Def't.

The plaintiff excepts to all the foregoing interrogatories upon the ground that the testimony sought is incompetent, inadmissible, and impertinent to the issue between the parties. He further reserves all legal exceptions, accepts service, and waives time.

March 26, 1850.

GILBERT & LANDRUM,
Att'ys for Pl'ff.

Commission.

374 The State of Louisiana to of the parish of Desoto, State of Louisiana, or to any judge or justice of the peace in and for the same, or to any other duly commissioned and authorized officer to take testimony in civil cases by commission in and for the same, greeting:

Know ye that we, reposing full and entire confidence in your integrity and ability, do hereby empower and authorize you to cite and cause to appear before you Pierre Roubien or Robelou, of the parish of Desoto, State aforesaid, and J. O. Poissot, Antonio Garcia or Garce, *et al.*, witness on the part of the defendant in a certain suit now pending in the district court in and for the parish of Caddo, State of Louisiana, numbered 1,640, in which Reuben White is plantiff and McMullen is defendant, and the answers of the said witness under oath to the annexed interrogatories, you shall reduce to writing, and cause the said answers to be subscribed by said witness, and after having duly certified the same under your hand and private seal, you will enclose with this commission and annexed interroga-
375 tories, seal and direct the same to the clerk of our said court on or before the 1st Monday in May next.

Witnes the honorable Edward R. Alcott, judge of our said court, this 26th day of March, A. D. 1850.

B. WELLS, *Clerk.*

Answers to interrogatories.

The State of Louisiana, parish of Desoto.

R. WHITE *vs.* McMULLEN. } D. C.—No. 1,640.

Be it known that on this the twenty-sixth day of April, in the year one thousand eight hundred and fifty, I, James N. Parsons, a justice of the peace in and for the parish and State aforesaid, caused to appear before me, agreeably to a commission to me directed by the district court in and for the parish of Caddo, State aforesaid, Pierre Robleau and J. O. Poissot, who being sworn by me in the manner

directed by law, made the answers, as written by me below,
376 to the interrogatories as hereto annexed in the above-entitled cause now pending in the law court.

Answers of Pierre Robleau.

Answer to int. 1. Deponent says that he is in his 47th year, and that he has resided in the Red river country since his birth.

Answer to int. 2. Deponent knew John McLaughlin of the parish of Caddo for a period of 32 or 33 years, and up to the time of his death.

Answer to int. 3. Deponent says that he knows the tract of land described in the 3d int.; that some 32 or 33 years since Edward McLaughlin, the father of John McLaughlin, moved on this land, on which he subsequently lived, and which he cultivated; that previous to that time the land was inhabited by some Indians; and the deponent understood that the said Edward McLaughlin had purchased the claim of the said Indians to the same, and that John McLaughlin never did live on said land.

377 Answer to int. 4th. That he never did.

Answer to int. 5th. That he knows nothing about John McLaughlin's claim to the said land; if he had any it was within deponent's knowledge.

Answer to int. 6th. That he never did, nor does he know anything about it.

Answer to int. 7th. That he knew Charles Myers; that he was notoriously of a bad character, and report said that he was a horse thief; that he had no particular home, but remained for some considerable time on Red river, and at different places.

Answer to int. 8th. That he has already answered this.

Answer to int. 9th. That he knows Reuben White; that he never heard him speak on the subject of the claim in question.

378 Answer to int. 10th. That he knows nothing further on the subject of his own knowledge, and has frequently heard that John McLaughlin's claim to the land in question was a fraudulent one.

his
PIERRE + ROBLEAU.
mark.

Attest:
W. J. HAMILTON.
S. H. PARSONS.
JAS. W. PARSONS,
Just. Peace.

Answers of J. O. Poissot.

Answer to int. 1. Deponent says that he is 46 years old; that he has lived in the Red river country since his birth.

Answer to int. 2. That he knew John McLaughlin, of the parish of Caddo, and that he became acquainted with him about 30 years ago.

Answer to int. 3. That John McLaughlin never did live on or cul-

tivate the land in question, but that both John McLaughlin and his father, Edward McLaughlin, told him, deponent, that her Edward McLaughlin had purchased the Indian claim tract, and that Ed-
379 ward McLaughlin lived on and cultivated the same; that it was about 30 years ago that Edward McLaughlin moved on the said land.

Answer to int. 5th. That if John McLaughlin ever had any claim to the land in question, he, deponent, never knew it or heard of it.

Answer to int. 7th. That he has seen Charles Myers, but knows very little about him, barely having seen him.

Answer to int. 8th. That he knows nothing further relative to the validity of John McLaughlin's claim to the land in question than what he has already said.

Answer to int. 9. That he does not know Reuben White.

Answer to int. 10. That this deponent was about 14 years of age, and for many years afterwards he was in the section of country alluded to, engaged in minding stock, and that he was frequently
380 at the residence of Edward McLaughlin on the land in question, and that Edward McLaughlin, as deponent understood, sold the land about 27 years ago, and left that section of the country; that John McLaughlin sold his claim to a piece of land to Antoine Poierre, which land lay some distance above Pascagoula bayou; that Edward McLaughlin was the first and only settler on this tract of land at that time; that many years afterwards, Demas Bossier, who was the second settler, moved in and settled there; that is, below Pascagoula bayou on Red river.

his
J. O. + POISSOT,
mark.

Attest:

W. J. HAMILTON,
JNO. H. QUARLY,
JAS. W. PARSONS,
Just. Peace.

R. WHITE *vs.* McMULLEN. } No. 1,640.

THE STATE OF LOUISIANA, *Parish of De Soto:*

I hereby certify that the above and foregoing are the answers to the annexed interrogatories to be used as evidence in the above-entitled cause now pending in the district court, in the parish of
381 Caddo, State aforesaid, as taken before me, the undersigned justice of the peace, agreeably to the annexed commisson, and as made by Pierre Robleau, and J. O. Poissot, who were duly sworn by me before making the said answers, and that I caused the said deponents to make their marks as above, they not being able to write, in presence of the witnesses, William J. Hamilton and John H. Quarles, in the parish aforesaid, and on this the 26th day of April, A. D. 1850.

In testimony whereof I hereto sign my name and affix my private seal, having no seal of office, on the day as above written.

[SEAL.] JAS. N. PARSONS,
Just. Peace.

STATE OF LOUISIANA, *Parish of Caddo:*

I, N. E. Wright, clerk of the district court for said parish and State, do hereby certify that the foregoing pages, from (1 to 25) one to twenty-five, contain a true and correct transcript of rejected testimony in the case wherein Cannon is pl'ff, and White def't, No. , on the docket of this court, on file and on record in my office.

382 Given under my hand and official seal at Shreveport, this July 6th, 1859.

(Signed) N. E. WRIGHT, *Clerk.* [SEAL.]

Indorsed: Rejected testimony. Cannon *vs.* White. No. 5,186.

Filed July 12th, 1859.
(Signed) H. M. BRY, *Cler.*

Supreme Court. Filed Jan'y 31st, 1861.
(Signed) EUGENE LASERE, *Clerk.*

383 SOUTHWESTERN LAND DISTRICT, STATE OF LOUISIANA,
Opelousas, November 1st, 1854.

To the honorable William H. Crawford, Secretary of the Treasury of the United States:

The register and receiver of the southwestern land district, in obedience to the act of Congress entitled an act providing for the execution of the titles of land in that part of the State of Louisiana situated between the Rio Hondo and the Sabine river, approved March 3d, 1823, and to the act supplementary thereto, approved May 26th, 1824, respectfully report:

* * * * * * * * *

14. Leonard Dyson, of the parish of Natchitoches, assignee of Edward McLaughlin, filed his notice claiming, by virtue of habitation, occupation, and cultivation, a tract of land being within the late neutral territory, situated on the waters of Red river, on the east side of a cut-off which forms Norris's island, bounded on all sides by vacant land, and containing 640 acres.

The claim is supported by the following testimony taken before the board:

Samuel Morris and Peter Murphy, being sworn, severally says that they know the land claimed by Leonard Dyson, assignee of Edward McLaughlin, and described in the above notice; that the same is being and situated as is therein discribed; that said tract of land was occupied, inhabited, and cultivated by the claimant, and those under whom he holds by them, sowing and growing corn thereon, on and previous to the 22d of Feb'y, 1819; that said habitation, occupation, and cultivation, has been continued by the claimant, and

those under whom he holds, since that period to the present
384 time, and that the claimant's improvements on the tract claimed at this time includes about five acres.

On this testimony, we are of opinion, the claim ought to be confirmed, and have consequently in the abstract classed it with the third class of claims.

* * * * * * * * *

All which is respectfully submitted by your most ob't serv't,

(Signed) VALENTINE KING, *Register.*

(Signed) DAVID L. TODD, *Receiver.*

* * * * * * * * *

Abstract containing the whole number of claims embraced in the foregoing report:

THIRD CLASS.

No.	Name of claimant.	Situation of claim.	Quantity.
			Acres.
14	Leonard Dyson, ass'ee of Ed. McLaughlin.	Red river.....	640
*	* * * * * * * *	* * * * * * * * *	* *

(Signed) DAVID L. TODD, *Receiver.*

Copy: attest.

(Signed) E. H. PENROLL, *Dep'y Cl'k.*

385 Returned and filed April 9th, A. D. 1859.

E. H. PENNWALL, *D'y Cl'k.*

Filed in evidence, and marked X, Apr. 14th, 1859.

(Signed) E. H. PENNWALL, *Dep'y Cl'k.*

(Signed) EDGARD T. FRANKLIN.

(Here follows map, marked page 385.)

(Here follows map, marked page 386.)

386 In compliance with an order of the honorable district court of Caddo parish, Louisiana, to me directed to make survey—said order bearing date of January 31st, 1850—I have surveyed a tract of land lying on the Red river and Pascagoula bayou, in township 10 of range 12 north and west, and being in Caddo parish, bounded on the north by Red river; east by Red river, and a portion of thirty-six south, by the Red river and the township line; and west

by Pasgagoula bayou, being known as the McLaughlin donation, surveyed and bounded on the 15th November, 1842, by H. Bagarly, U. S. deputy surveyor, as shown by a copy of his survey on file in surveyor general's office at Donaldsonville, Louisiana.

Commencing on the south bank of Red river, and the east bank of Pascagoula bayou, in sec. 34; ran down said bayou to traverse S. 20 W., 6.00; S. 6 W., 5.00; S. 20 W., 3.00; S. 51 W., 3.50; S. 28 W., 3.50, township line, where some marks were found showing that the corner was there, and from the situation and position we knew it to be the corner of a portion of sec. 34, the fraction caused by Red river and Pascagoula bayou; thence east 90.54 to Red river; a large cottonwood marked for the corner; thence, up the traverse on Red river, N. 13 E., 5.00; N. 42 E., 5.00; N. 56 E., 1.50; N. 43 E., 4.50; N. 75 E., 4.50; N. 79 E., 3.40; S. 80 E., 7.00; S. 56 E., 19.80; S. 65 E., 7.70; North 22.70; N. 74 W., 5.70; N. 17 W., 14.50; N. 23 W., 10.00; N. 5.00; N. 20 E., 3.50; N. 31 E., 10.00; N. 19 E., 12.50; N. 4 E., 17.00; N. 16 W., 11.50; N. 33 W., 1.00; N. 50 W., 17.00; S. 85 W., 7·00; S. 66 W., 5; S. 47 W., 11.00; S. 32 W., 10.50; S. 17 W., 17.00; S. 32 E. 7.00; S. 25 E., 12.00; S. 18 E., 8.00; S. 5 E., 4.00; S. 9 W., 3.50; S. 28 W., 3.50; S. 40 W., 8.00; S. 57 W., 7.00; S. 61 W., 4.50; S. 72 W., 5.00; S. 76 W., 9.00; S. 83 W., 4.00; S. 81 W., 12.00; S. 68 W., 17; S. 82 W., 10.00; N. 82 W., 10.00, to the place of beginning, having ran to the variation of 8° 30'. which I found to correspond with the township line having such marks, shapes, and boundaries as shown on the preceding diagram.

Survey completed on the 11th April, 1850.

Samuel Norris and Charles Blount, chain carriers, sworn according to law.

(Signed) H. WATTS, *P'sh Surveyor.*

Survey made by order court; completed April 11th, 1850.
Filed April 16th, 1850.

(Signed) B. WELLS, *C'lk.*

Recorded, filed in evidence, and marked (Z.)

(Signed) N. E. MYTEL, *Clerk.*

387 (Here follows map marked page 387.)

Pursuant to an order from the surveyor general of Louisiana, dated 12th October, 1842, I have surveyed and measured, marked the boundaries of a tract of land confirmed to John McLaughlin by act of Congress, approved 6th July, 142, No. 162 of the reg'r and rec'r's report, sealed at Opelousas May 13th and June 6th, 1840, situated on the south bank of Red river, and adjoining below the Pascagoula bayou, in T. 16 N., R. 12 W., northwestern land district Louisiana, beginning at a post on the south bank of Red river and on the east bank of Pascagoula bayou, in section 34 of T. 16 N., R. 12 W., thence down said bayou on traverse S. 20 W., 6.00; S. 6 W., 5.00; S. 26 W., 3.00; S. 51 W., 3.50; S. 23 W., 3.50, to the southern boundary of this

township, a cotton wood and hackberry marked for the corner of section 34 on the township line; thence east 90.54 ch's to the bank of Red river, a large cottonwood marked for the corner; thence up the river on traverse N. 13 E., 5.00; N. 42 E., 5.00; N. 56 E., 1.50; N. 54 E., 4.50; N. 75 E., 4.50; N. 79 E., 3.00; S. SE. 50 E., 7.00; S. 56¾ E., 19.80; S. 65 E., 7.70; North 22.70; N. 74½ W., 5.70; N. 47 W., 14.50; N. 23 W., 10.00; North 5.00; N. 20 E., 3.50; entered Col. Bates' field N. 31 E., 10.00; N. 19 E., 12.50, left field N. 4 E., 17.00; N. 16 W., 11.50; No. 33 W., 7.00; N. 50 W., 17.00; S. 5 W., 7.00; S. 66 W., 5.00; S. 47 W., 11.00; S. 32 W., 10.50; S. 17 W., 17.00; S. 32 E., 7.00; S. 25 E., 12.00; S. 18 E., 8.00; S. 5. E., 4.00; S. 9 W., 3.50; S. 28 W., 3.50; S. 40 W., 8.00; S. 57 W., 7.00; S. 61 W., 4.50; S. 72 W., 5.00; S. 76 W.. 9.00; S. 83 W., 4.00; S. 81 W., 12.00; S. 68 W., 17.00; S. 82 W., 10.00; N. 82 W., 10.00, to the junction of Pascagoula bayou with Red river, the place of beginning, with a variation of 7° degrees east set off on my compass, which I found to correspond with the old township line.

388 Having such shape, form, and marks, etc., both natural and artificial as are represented in the preceding diagram, being section 34, and containing 621 23-100.

Josiah J. Rivers, George Jones, and Clement Mills, sworn chainers and flagmen. Survey completed on the 15th of November, 1842.

(Signed) H. BAGARLY,
U. S. Dep'y Surveyor.

SURVEYOR GEN'LS OFFICE, DONALDSONVILLE, LA.,
March 3d, 1843.

Examined and approved.

(Signed) F. D. NEWCOMB,
Sur'r Gen'l, La.

Filed in evidence April 15th, 1859, and marked 10.

(Signed) E. H. PENNWALL,
D'y Clerk.

John McLoughlin, R. & R's Rep't., at Opelousas. Cert. No. 162, sec. 34.

389 GENERAL LAND OFFICE.

I, John Wilson, Commissioner of the General Land Office, do hereby certify that the foregoing, on pages 1 and 2, is a true copy of the original in this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of office to be affixed at the city of Washington, this twenty-first day of March, 1854.

(Signed) JOHN WILSON, [L. S.]
Commissioner.

390 (Here follows map marked page 390.)

nformity with an order from an hon. court of the parish of C... I have surveyed a tract of land situated on the waters of Red ri... on the southeast side of a cut-off which forms Norussus island, no... called Pascagoula bayou, bounded on all sides by vacant land, and containing 640 acres of land, commencing at the junction of right b... Pascagoula bayou and right bank of Red river, traverse down s... nk of Red river, viz: S. 72½ E., 5.50; S. 84¼ E., 8.50; N. 85 E., 7.50; N. 76 E., 10.00; N. 71¾ E., 14.00; N. 82½ E., 10.50; N. 4.82; N. 78 E., 9.11; N. 78½ E., 8.88; N. 59 E., 10.26; N. 5.30; N. 11½ E., 3.96; S. 1½ E., 3.60; S. 10¼ E.. 7.73; S. 8.37; N. 13¼ W., 18.08; N. 18 E., 17.27; N. 41 E., 18.40; , 5.50; N. 88¼ W., 7.72; N. 42⅛ W., 3.74; N. 50⅛ W., 5.00; W., 17.30; N. 7½ W., 17.50; N. 12¾ E., 11.50; N. 29¼ E., ; N. 19 E., 4.00; N. 3 E., 5.00; N. 17¾ W., 5.00; N. 32¾ W., N. 43½ W., 5.00; N. 54¼ W., 3.50; N. 68 E., 5.00; N. 75½ W., N. 82½ W., 2.85, to corner established at northwest corner of ... thence due south 20.10 to corner of sec. 37 and township line; ...long said township line N. 89¾ E., 11.61, to river bank; ...continued traversing along bank S. 7¼ E., 20.50; S. 71 E., S. 86¾ E., 6.50; N. 74¾ E., 7.50; N. 55¾ E., 8.50; N. 16¾ E., ... corner of township line and right bank of Red river; thence ... line N. 89¾, 58.07, to northwest corner of sec. 1., T. 15 ... W.; thence followed said township line to bank of Pasca... ou N. 89¾ E., 32.20; thence traversed up right bank of ...la bayou S. 23 W., 3.50; S. 51 W., 5.00; S. 18 W., 6.50; 5.40; N. 38¼ E., 2.75, to place of beginning, containing ... acres.

...veport, La., April 9th, 1859.

(Signed) EDGAR J. FRANKLIN,
Surveyor.

... SHERIDAN,
DANIEL O. CONNELL,
Sworn Chain Carriers.

(Here follows 2 maps, marked pages 391 and 392.)

393 Proceedings of the supreme court of the State of Louisiana in the years 1865 and 1866.

Motion to reinstate.

... CANNON, app't,
vs.
... WHITE, app'ee. } 35.

... supreme court of Louisiana, at New Orleans, appeal from Caddo.

On motion of H. M. Hyams and Robert Mott, of counsel for Re... White, defendant and appellee, and on suggesting that this case ... properly to the court at ... have been ... decided there; that there ... the record of a

consent of the parties litigant to move the case to New Orleans, and that this case was decided after the passage of the ordinance of secession, it is ordered that the plaintiff and appellant show cause, on Tuesday the 14th inst., why the case shall not be reinstated on the docket for trial to be argued again at Monroe.

Filed Nov. 7th, 1865.

(Signed) J. H. ILSLEY, Jr., *D'y Cl'k.*

Motion to extend motion.

E. Cannon, app't,
vs.
Reuben White, app'ee. } 35.

On motion of Robert Mott, of counsel of appellee, and on
394 suggesting that since filing the motion in this case on the 7th inst. he has ascertained the death of Elijah Cannon, the appellant, that his succession has been opened in the second district court of New Orleans; that Mrs. Louise Adelaide Sharp, widow of said Cannon, has been qualified as administratrix thereof, and Mrs. Wm. B. Koontz has accepted the said succession as only and universal heir, it is therefore ordered that the said motion be extended until Tuesday next the 21st inst., at 11 o'clock a. m., and that said administratrix and said universal and only heir, with her husband Wm. B. Koontz, esq., be notified of the same.

Filed 14 Nov. 1865.

(Signed) JOHN H. ILSLEY, Jr., *D'y Cl'k.*

Sheriff's return.

Received on Tuesday, November 16th, 1865, and on the same day served copies of the within motion on Mr. Wm. B. Koontz personally.

New Orleans, Nov. 16th, 1865.

(Signed) H'Y REMY, *D'y S'ff.*

Filed 16th Nov., 1865.

(Signed) JOHN H. ILSLEY, Jr., *D'y Cl'k.*

395 *Opinion and decree.*

Supreme court of the State of Louisiana.

The court met Monday, March 26th, 1866.

Present, their honors Zenon Labauve, Jno: H. Ilsley, Rufus H. Howell, R. B. Jones, associate justices.

W. B. Hyman, chief justice, absent.

Appeal from the 18th judicial district court held in the parish of Caddo.

Elijah Cannon, appellant,
vs.
Reuben White, appellee. } No. 35.

In this cause Mr. Justice Labauve this day delivered the opinion of the court in writing in the words and figures following:

This case is before us on a motion of the following tenor:

On motion of H. M. Hyams and Robert Mott of counsel for Reu-

ben White, defendant and appellee, and on suggesting that this case belonged properly to the court at Monroe, and should have been tried and decided there, that there is no evidence in the record of a consent of the parties litigant to move the case to New Orleans, and that the case was decided after the passage of the ordinance of secession, it is ordered that the plaintiff and appellant show cause, on the instant, why the case shall not be reinstated on the docket for trial to be argued again at Monroe.

The case was originally tried and decided in the parish of
396 Caddo, and an appeal being taken, it was made returnable to the supreme court at Monroe for the July term of 1860. Thence it was removed to New Orleans under the following agreement of counsel.

It is agreed between the parties to the above-entitled case that the transcript and proceedings herein be transmitted to New Orleans to await the next session of the supreme court in that city, there to receive the final decision of the court.

It is further agreed that the delay within which a rehearing of said case may be urged shall be within thirty days after notice served upon the counsel of the party against whom judgment may be rendered, which notice shall be transmitted by the clerk of the supreme court to the sheriff of the parish of Caddo, and by him served; said case to be decided in the month of January next, or otherwise to be decided at the next session of the supreme court at Monroe, La., in which event the code of practice is to govern.

July 18th, 1860.

(Signed) WINANS & HEATH, *for Pl'ff.*
(Signed) LANDRUM, WILLIAMSON,
(Signed) B. L. HODGE, *for Def't.*

On the 31st of January, 1861, the record was filed in this court, and on the same day a final decision was rendered reversing the judgment appealed from, and giving a judgment in favor of plaintiff and appellant. On February 28th, 1861, an application was filed for a rehearing, and its was overruled on June 10th, 1861.
397 The present motion to reinstate the case was filed November 7th, 1865. The grounds in support of the motion used in the written arguments are substantially:

That the supreme court held in New Orleans was without jurisdiction to try and determine cases returned to the supreme court at Monroe, and that the agreement of counsel could not confer that jurisdiction. That it was a waiver of a right not contemplated in the course of the administration of justice, and therefore counsel had no right to move it. That it is a nullity if counsel had a right to make, because in contravention of public policy. That the judgment of the supreme court, having been rendered after the ordinance of secession, has become absolutely null and void, and is now binding on none of the parties, and the present court is bound to disregard it, and to proceed in the case as it stood before said judgment was pronounced.

The object and effect of the motion would be then to consider the

decision in question as an absolute nullity, and as a blank piece of paper; because if it were a relative nullity it would then be voidable, and it would require a judgment to declare that nullity.

The only question before us is whether the judgment in question is absolutely null and void or not. We are clearly of opinion that it is not tainted with absolute nullity, and that if there be any
398 nullity about it, it is only relative, and the judgment must stand until overruled by proper proceedings.

The constitution of 1852, art. 72, requires courts, in all cases, to adduce the reasons on which their judgment is founded. Suppose, then that the supreme court had omitted to comply with that constitutional provision in rendering their judgment in this case, could the mover have contended that the judgment was null and void absolutely, and that we must disregard and ignore it, and proceed in the case as if not judgment had been pronounced?

The question, in the supposed case, is settled; the judgment is not absolutely null and void, but is voidable only. As to the ordinance of secession, it was an absolute nullity, and produced no legal effect; the supreme court was not affected or changed by its passage.

The motion to reinstate is overruled.

Original opinion indorsed: No. 35. Supreme court of La. Elijah Cannon, app't, *vs.* Reuben White, app'ee. Decree on motion to reinstate 4 judges. Appeal from the 18th judicial district court of Caddo. Motion to reinstate overruled. Labauve, J.

Filed March 26th 1866.

(Signed) FELIX BRAND, *D'y C'k.*

399 *Petition for a writ of error.*

Filed April 3d, 1866.

(Signed) FELIX BRAND, *D'y Cl'k.*

E. CANNON
vs.
R. WHITE.

To the honorable Hyman, chief justice of the supreme court of Louisiana:

The petition of Reuben White, respectfully represents—

That the supreme court of Louisiana has, on the 10th June, 1861, and on the 26th ultimo, rendered a final judgment or decree against your petitioner in the case wherein one E. Cannon is plaintiff and appellant, and your petitioner is defendant and appellee, the said cause being number 35 on the docket of the said court.

That petitioner is advised by his counsel and believes that there is error to his prejudice in the said final decree, and that a writ of error lies upon the said decree to the Supreme Court of the United States of America for the correction of the same.

Wherefore he prays that a writ of error issue in the said cause, returnable, according to law, in the Supreme Court of the United

States of America, and the said plaintiff and appellant be cited to appear in the said court on the first Monday of December next,
400 and he prays for general relief.

(Signed) SEMMES & MOTT,
Att'ys for Appellee.

Order.

Let the writ of error be allowed, as prayed for, upon petitioner giving bond with J. W. Payne as surety, in the penal sum of fifteen thousand dollars, conditioned according to law.

3d April, 1866.

(Signed) W. B. HYMAN,
Chief Justice of the Supreme Court of Louisiana.

Indorsed: Supreme court of the State of Louisiana, No. 35. E. Cannon *vs.* Reuben White. Petition for writ of error to Sup. Court of U. S. Semmes & Mott, att'y for pl'ff in error. Supreme court of Louisiana.

Filed April 3d, 1866.

(Signed) FELIX BRAND, *D'y C'k.*

Bond.—Filed April 3d, 1866.

Know all men by these presents, that we, Reuben White, as principal, and J. W. Payne, as surety, are held and firmly bound unto E. Cannon and Mrs. Louise Adelaide Sharpe, widow and administratrix of E. Cannon, and Wm. B. Koontz and wife, in the full and just sum of fifteen thousand dollars, to be paid to *paid to* the said E.
401 Cannon and his said administratrix, and Wm. B. Koontz and wife, his and her certain attorneys, executors, administrators, or assigns; to which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents. Sealed with our seals and dated this 3d day of April, in the year of our Lord one thousand eight hundred and sixty-six.

Whereas lately at a supreme court of the State of Louisiana, holding sessions in New Orleans, Louisiana, in a suit depending in said supreme court, wherein E. Cannon was plaintiff, and Reuben White was defendant, judgment was rendered against the said Reuben White, defendant, and the said Reuben White having obtained a writ of error and filed a copy thereof in the clerk's office of the said supreme court to reverse the judgment in the aforesaid suit, and a citation directed to the said E. Cannon and his legal representatives, and Wm. B. Koontz and wife, citing and admonishing him and them to be and appear at a Supreme Court of the United States, to be holden at Washington the first Monday of December next.

Now the condition of the above obligation is such, that if the said Reuben White shall prosecute his writ to effect, and answer
402 all damages and costs if he fail to make his plea good,

then the above obligation to be void; else to remain in full force and virtue.

(Signed) REUBEN WHITE. [L. S.]
" SEMMES & MOTT,
Att'ys at Law.
" J. W. PAYNE. [L. S.]

Sealed and delivered in the presence of—
Witness to the signature of J. W. Payne—
(Signed) ROBERT MOTT.

Indorsed: Supreme court of the State of Louisiana. No. 35. E. Cannon *vs.* Reuben White. Bond for writ of error.
Filed April 3d, 1866.
(Signed) FELIX BRAND, *D'y C'k.*

Writ of error.—Filed April 6th, 1866.

UNITED STATES OF AMERICA, *ss:*

The President of the United States to the honorable the judges of the supreme court of the State of Louisiana, and holding sessions at New Orleans, Louisiana, greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said supreme court before you, or one of you, being the highest court of law or equity of the said State in which a decision could be had in the said suit, between E. Cannon and Reuben White, wherein was drawn in question the
403 validity of a treaty or statute of, or an authority exercised under, the United States, and the decision was against their validity, or wherein was drawn in question the validity of a statute of, or authority exercised under, said State on the ground of their being repugnant to the Constitution, treaties, or laws of the United States, and the decision was in favor of such their validity; or wherein was drawn in question the construction of a clause of the Constitution, or of a treaty, or statute of, or commission held under, the United States, and the decision was against the title, right, privilege, or exemption specially set up or claimed under such clause of the said Constitution, treaty, statute, or commission, a manifest error hath happened, to the great damage of the said Reuben White, as by his complaint appears: We, being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the first Mon-
day of December next, in the said Supreme Court to be then
404 and there held, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error what of right and according to the laws and customs of the United States should be done.

Witness the honorable Salmon P. Chase, Chief Justice of the said Supreme Court of the United States, this 5th of April, in the year of our Lord one thousand eight hundred and sixty-six.

(Signed) CHS. CLAIBORNE, [SEAL.]
Clerk of the United States Circuit Court for the Eastern District of Louisiana.

Indorsed: Supreme court of the State of Louisiana, No. 35. E. Cannon *vs.* Reuben White. Writ of error.
Filed April 6th, 1866.
(Signed) FELIX BRAND, *D'y Cl'k.*

Copy of writ of error.

UNITED STATES OF AMERICA, *ss:*

The President of the United States to the honorable the judges of the supreme court of the State of Louisiana, and holding sessions at New Orleans, Louisiana, greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said supreme court before you, or one of you, being the highest court of law or equity of the said
405 State in which a decision could be had in the said suit between E. Cannon and Reuben White, wherein was drawn in question the validity of a treaty or statute of, or an authority exercised under, the United States, and the decision was against their validity, or wherein was drawn in question the validity of a statute of, or authority exercised under said State, on the ground of their being repugnant to the Constitution, treaties, or laws of the United States, and the decision was in favor of such their validity; or wherein was drawn in question the construction of a clause of the Constitution, or of a treaty, or statute of, or commission held under, the United States, and the decision was against the title, right, privilege, or exemption specially set up or claimed under such clause of the said Constitution, treaty, statute, or commission, a manifest error hath happened, to the great damage of the said Reuben White, as by his complaint appears: We, being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have
406 the same at Washington on the first Monday of December next, in the said Supreme Court to be then and there held, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error what of right and according to the laws and customs of the United States should be done.

Witness the honorable Salmon P. Chase, Chief Justice of the said

Supreme Court of the United States, this 5th of April, in the year of our Lord one thousand eight hundred and sixty-six.

(Signed) CH'S CLAIBORNE, [SEAL.]
Clerk of the United States Circuit Court for the Eastern District of Louisiana.

Indorsed: Supreme court of the State of Louisiana, No. 35. E. Cannon *vs.* Reuben White. Writ of error.

Copy of writ of error lodged in the clerk's office of the supreme court of the State of Louisiana, in pursuance the statute in such cases made and provided, this sixth day of April, A. D. 1866.

(Signed) SEMMES & MOTT,
Attorneys of Plaintiffs in Error.

Filed April 6th, 1866.

(Signed) FELIX BRAND, *D'y Cl'k.*

407 *Citation in error.*

UNITED STATES OF AMERICA, *State of Louisiana:*

The President of the United States of America to E. Cannon, and his legal representatives, and Mrs. Louise Adelaide Sharpe, administratrix, and Wm. B. Koontz and wife, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States of America, to be holden at the city of Washington, in the District of Columbia, on the first Monday of December next, pursuant to a writ of error filed in the clerk's office of the supreme court of the State of Louisiana, holding sessions at New Orleans, wherein Reuben White is plaintiff in error, and you are defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error as in said writ of error mentioned should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness my hand and seal, at the city of New Orleans, this 3d day of April, 1866.

(Signed) W. B. HYMAN, [SEAL.]
Chief Justice of the Supreme Court of the State of Louisiana.

408 *Sheriff's return.*

September 12th, 1866. Received September 12th, 1866, and on the 13th of same month served copy of the within citation on W. B. Koontz, esq., and returned same day.

(Signed) JNO. L. LEWIS, *Dy. Sh'ff.*

Indorsed: Supreme court. Filed Sept. 13th, 1866.

(Signed) FELIX BRAND, *Dy. C'k.*

Citation in error.

UNITED STATES OF AMERICA, *State of Louisiana:*

The President of the United States of America to E. Cannon and his legal representatives, Mrs. Louise Adelaide Sharp, administratrix, and Wm. B. Koontz and wife, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States of America, to be holden at the city of Washington, in the District of Columbia, on the first Monday of December next, pursuant to a writ of error filed in the clerk's office of the supreme court of the State of Louisiana, holding sessions at New Orleans, wherein Reuben White is plaintiff in error, and you are defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error as in
409 said writ of error mentioned should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness my hand and seal at the city of New Orleans, this 3d day of April, 1866.

(Signed) W. B. HYMAN, [SEAL.]
Chief Justice of the Supreme Court of the State of Louisiana.

Sheriff's return.

Sept. 12th, 1866. Received Sept. 12th, 1866. Service accepted for Mrs. Adelaide Sharp, wife of E. Cannon, dec'd, and for Mrs. W. B. Koontz.

(Signed) W. B. KOONTZ, *Att'y.*

Indorsed: Supreme Court, filed 13th Sept., 1866.
(Signed) FELIX BRAND, *Dy. C'k.*

410 United States of America, supreme court of the State of Louisiana, holding sessions at New Orleans, La.

I, J. Madison Wells, jr., clerk of the supreme court of the State of Louisiana, holding sessions at New Orleans, La., do hereby certify that the foregoing four hundred and nine pages contain a true copy of the transcript of the proceedings had in the eighteenth judicial district court of the parish of Caddo, in a certain suit wherein Elijah Cannon was plaintiff and Reuben White was defendant, and also of the proceedings had in the supreme court on the appeal taken by said Elijah Cannon, which appeal is now on files thereof under number thirty-five.

In testimony whereof, I have hereunto set my hand and affixed the seal of the said court at the city of New Orleans, this third day of October, A. D. 1866, and in the ninety-first year of the independence of the United States of America.

[SEAL.] J. MADISON WELLS, JR.,
Clerk Supreme Court of Louisiana.

411 United States of America, supreme court of the State of Louisiana.

I, W. B. Hyman, chief justice of the supreme court of the State of Louisiana, do hereby certify that J. Madison Wells, jr., is the clerk of the supreme court of the State of Louisiana, holding sessions at New Orleans, La., that the signature of J. Madison Wells, jr., to the within certificate is in the proper handwriting of him, the said clerk, that said certificate is in due form of law, and that full faith and credit are due to all his official acts as such.

In testimony whereof, I have hereunto set my hand and seal at the city of New Orleans, this third day of October, A. D. 1866, and in the ninety-first year of the independence of the United States of America.

[SEAL.] W. B. HYMAN, *Chief Justice.*